

**FARMLAND LEASE AGREEMENT
HERNOR OPEN SPACE**

THIS LEASE AGREEMENT is made as of this _____ day of _____, 2024, by and between the City of Longmont, Colorado, a municipal corporation, acting on behalf of its Parks and Natural Resources Department, 7 South Sunset Street, Longmont, Colorado 80501 (the "City"), and Sipe Farms LLC, William Sipe and Chad Musick, 1691 Weld County Road 28, Longmont, Colorado 80504 (Lessee).

THE PARTIES' RECITALS ARE AS FOLLOWS:

WHEREAS, the City owns 140 acres of land known as Hernor Open Space, Longmont, State of Colorado, and desires to permit agricultural use of the property; and

WHEREAS, the parties desire to state their duties and responsibilities regarding the lease of the real property described below for farming.

IN CONSIDERATION of the recitals, lease payments, mutual promises, and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties covenant and agree as follows:

1. Land Parcel

1.1. The City leases unto the Lessee, for the term, use and under the conditions herein, the real property consisting of 140 acres of land known as Hernor Open Space, Longmont, State of Colorado, (the "Property") and more specifically described as follows:

Legally described in Exhibit A and shown on the map attached hereto as Exhibit B, which exhibits are made a part hereof by this reference.

1.2. Lessee shall not have the right to sell, assign, sublet, or lend the use of any of the water owned by the City, or any portion thereof, to anyone without the prior written consent of the City, and no portion of said water owned by the City shall be used on any lands other than those described in this agreement.

Lessee acknowledges that the following irrigation water rights are owned by the City and available to Lessee for agricultural use:

Water Rights

- 100 units of Northern Colorado Water Conservancy District
- 2 shares of Highland Irrigation Company water.

Unless otherwise approved by the Open Space Manager, the irrigation water is to be used for irrigation of the Property only. In case specific instances, the Open Space Manager may allow the water to be used in a manner consistent with other Open Space values. The City shall be responsible

for payment of water assessments for these shares. Lessee acknowledges that the City makes no guaranty or representation as to the amount or quality of water any shares or other interest in a water right(s) will provide. Lessee shall be responsible for acquisition of, and payment for additional rental water to be used on the Property, including ditch carrying charges resulting from such rental. Additionally, if pumping is necessary for irrigation, the Lessee shall be responsible for any utility charges or fuel to pump water associated with any system. Lessee further agrees to provide the City with an irrigation schedule that provides a record of quantities of irrigation water used, and of starting and ending dates of annual irrigation.

2. Condition of Property

2.1. Prior to signing this Lease Agreement, the Lessee has inspected or caused to be inspected the Property and leases it in an "as-is" condition and subject to all encumbrances, easements, restrictions, reservations, covenants and rights of way of record, including but not limited to oil and gas leases. No additional representation, statement or warranty, express or implied, has been made by or on behalf of the City as to the condition of the Property. In no event shall the City be liable for any defect in the Property or for any limitation on its use for farmland or pasture.

3. Term

3.1. The term of this Lease Agreement shall be a five (5) year term beginning on the date that this Lease Agreement is fully executed.

3.2. If Lessee so requests, through written notice to the City sixty days prior to the expiration of the lease term, the City, in its sole discretion, may extend this Lease Agreement upon written notice to Lessee thirty days after receiving Lessee's notice, for up to four (4) additional one-year terms for the following years: 2029 - 2033. The lease rate for additional terms is subject to negotiation.

4. Delivery of Possession

4.1. The Lessee shall be entitled to possession of the Property at 12:01 a.m. on the date of commencement of the lease term.

5. Lease Payment

5.1. Lease Rate. The Lessee shall pay the City for use and occupancy of the Property the annual sum of \$10,500 (\$75.00 per acre) for the initial five (5) year term, payable upon execution of this Lease Agreement by Lessee. If the Lease Agreement is extended, the Lessee shall pay the agreed-upon rate for the renewed term, which is subject to negotiation, and payable upon execution of the renewed Lease Agreement by Lessee.

5.2. Late Payment. Any payment not paid within thirty days of the due date will be a default of the terms of this Lease Agreement. If the City starts collection procedures or incurs any costs in collecting a payment, the Lessee shall pay all the City's expenses therewith, including reasonable attorneys' fees.

5.3. Place and Manner of Payments. All payments by the Lessee to the City shall be made at the City of Longmont, to the attention of City of Longmont, Parks and Natural Resources Department, Danielle Cassidy (or such other City staff person as the City should identify), 7 South Sunset Street, Longmont, Colorado 80501, or at such other place as the City may designate by notice in writing to the Lessee. Any check received by the City shall be subject to collection. The Lessee agrees to pay all bank charges incurred by the City for the collection of any check.

6. Authorized Use

6.1. The Lessee shall occupy and use the Property solely for legal agricultural production.

6.2. The Lessee shall be responsible for the proper care of the Property, consistent with sound agricultural practices. The Lessee shall participate in any future request for the development and application of land management plans.

6.3. The Lessee shall irrigate the Property.

6.4. The Lessee shall furnish, at the Lessee's sole expense, all labor, machinery, fertilizer, weed spray and other items for farming.

7. Lessee's Covenants and Agreements

7.1. The Lessee shall maintain in a serviceable condition all access roadways used for agricultural purposes and, except for the Lessee's ingress or egress, shall keep all gates closed and locked at all times.

7.2. The Lessee shall make any necessary repairs at the Lessee's expense to all existing perimeter fencing around the Property and shall be responsible for the maintenance of all fencing and gates on the Property throughout the lease term.

7.3. The Lessee shall keep the Property clear of weeds. The Lessee shall apply all weed control chemicals and fertilizers in compliance with applicable federal, state, and local regulations and shall comply with the existing Conservation Easement attached as Exhibit C. The Lessee shall not use or permit to be used, any insecticide, pesticide, rodenticide, herbicide or other chemical substance on the Property for weed, pest, or rodent control or fertilization which is prohibited by any federal, state, or local statute, ordinance, resolution, rule, or regulation.

7.4. Lessee shall properly place, store, use, or dispose on the Property, temporarily or permanently, only those substances legally permitted to be used on the Property, and which are approved by the City. Such substances shall include fuel products that are hazardous, toxic, dangerous, or harmful, or which are defined as a hazardous substance by the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601. These substances shall be referred to collectively as "hazardous substances." Lessee shall immediately notify the City of all spills, releases, inspections, correspondence, orders, citations, notices, fines, responses, and/or cleanup actions, and violations of the law, regulations, or ordinances that impact

the Property.

7.5. The Lessee shall not assign this Lease Agreement nor sublet the Property or any part thereof, without the prior written consent of the City. No assignment, pledge, or mortgage of the Lessee's interest in the Lease Agreement or any crops herein shall be made without the prior written consent of the City, which consent shall be in the sole discretion of the City.

7.6. The Lessee shall not construct, nor permit construction of any structure, building or other improvement, temporary or otherwise, on the Property without City's prior written consent, which consent shall be in the sole discretion of the City.

7.7. The Lessee shall not erect, paint or maintain any signs on the Property without securing the prior written consent of the City, which consent shall be in the sole discretion of the City.

7.8. The Lessee shall not allow any noise, odors, fumes, or vibrations on the Property that would cause disruption of normal activities on adjacent properties.

7.9. The Lessee will not use or permit the Property to be used for any purposes prohibited by the laws of the United States, the State of Colorado, or applicable ordinances, resolutions, rules and regulations of the City of Longmont.

7.10. The Lessee, their heirs, assigns, invitees, or guests shall not hunt or otherwise pursue, trap, molest, disturb, or kill any wildlife at any time on the Property.

7.11. The Lessee agrees, covenants, and warrants to maintain the Property throughout the term of the Lease in as good repair and condition as at the commencement of this Lease Agreement.

7.12. The Lessee agrees to deliver up and surrender to the City possession of the Property at the expiration or termination of this Lease Agreement.

8. Indemnification

8.1. The Lessee assumes the risk of loss or damage to any crops or improvements on the Property whether from windstorm, fire, earthquake, snow, water run-off, soil conditions, or any other causes whatsoever.

8.2. The Lessee warrants, covenants and agrees that the Lessee shall indemnify and save harmless the City and its officers, employees, and agents from and against any and all claims, suits, actions, damages and causes of action arising during the term of the Lease Agreement for personal injury, loss of life, or damage to Property sustained in, or upon the Property and from and against all costs, attorneys' fees, expenses and liabilities incurred in connection with any such claims, the investigation thereof or the defense of any action or proceedings brought thereon, and from any judgments, orders, decrees, or liens resultant therefrom by virtue of nonperformance of a term, condition, warranty, covenant, or work by the Lessee, or the Lessee's contractors, subcontractors, agents, members, stockholders, employees, invitees, or successors.

8.3. By requiring this right to indemnification, the City in no way waives or intends to waive the limitations on liability which are provided to the City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, and as amended.

8.4. All uses of the land under the Lease will comply with the existing Conservation Easement attached hereto and incorporated herein as Exhibit C.

9. Reservations

9.1. The City reserves its rights under this Lease Agreement to:

9.1.1. Have its officers, employees and representatives enter and inspect or protect the Property at any time;

9.1.2. Use any portion of the Property for public utilities and as ingress and egress for public use and rights of way;

9.1.3. Use, repair, install, replace and maintain public utilities and rights-of-way on, over or under the Property;

9.1.4. Use any portion of the Property as a site for the application of digested biosolids;

9.1.5. Allow the use of any portion of the Property for geophysical (seismic) surveys; and

9.1.6. Enter into or use the property for a different beneficial municipal purpose, in accordance with the provisions herein.

10. Reduction of Acreage

10.1. The City may reduce the size and restrict the area of this agricultural Lease at any time and for any reason, provided that the fee associated with the Lease will be reduced proportionately.

10.2. Should the City reduce the size of the agricultural Lease during a time after which crops have been sowed, the City shall reimburse the Lessee for loss of crop revenue at an average yield rate per acre at the current market rate.

10.3. Should the Lease acreage be reduced for reasons outside of the City's control, the Lessee may be reimbursed for loss of crops or land by the party responsible for the reduction of the acreage and not the City.

11. Termination

11.1. The Lease Agreement shall terminate automatically at 11:59 p.m. on December 31, 2029, unless sooner terminated as stated herein, or unless the Lease Agreement is extended as contemplated in Section 3 above.

11.2. If the Lessee, after the expiration or termination of this Lease Agreement, shall remain in possession of the Property without a written Lease Agreement, the holding over shall be a tenancy from month-to-month at a monthly rental rate equivalent to one-twelfth of the last annual rental rate, payable in advance on the first day of each month. No payments of money by the Lessee after the expiration or termination of this Lease Agreement shall reinstate, continue, or extend the terms of this Lease Agreement.

11.3. The City in its sole discretion may terminate this Lease Agreement for cause or no cause upon sixty (60) days' written notice to Lessee.

11.4. The Lease shall terminate upon the Lessee's death, unless a successor expresses to the City an interest and ability to take over the lease, in which case, the City may, at its sole option, continue under the terms of the current Lease with the successor, subject to the potential for changed rates after the first 5-year term.

11.5. Lessee shall have the duration of the Lease Term to remove all of Lessee's personal property from the Leased Premises, unless the City terminates this Lease. Lessee agrees that any personal property remaining on the Property after the end of the Lease Term, or termination of the Lease, shall be deemed abandoned by Lessee and the City shall have the right to dispose of any such personal property in any manner the City deems appropriate. Lessee will be liable for any disposal costs incurred by the City.

12. Insurance Requirements

12.1. The Lessee shall purchase and maintain for the full term of this Lease Agreement, including any additional extension period(s), at the Lessee's sole expense, insurance policies providing coverage as follows:

12.1.1. Farm liability insurance, including coverage for bodily injury and property damage, contractual liability, broad form property damage, with minimum coverage and owner/contractor's protective coverage with minimum coverage of not less than the maximum amount that may be recovered against the City under the Colorado Governmental Immunity Act for: (a) any injury to one person in any single occurrence, and (b) any injury to two or more persons in any single occurrence, or as approved by the City's Risk Manager; and

12.1.2. Workers compensation and employers liability insurance, if applicable, which shall cover the obligations of the Lessee in accordance with the provisions of the Workers Compensation Act, as amended, of the State of Colorado.

12.2. Before commencement of the lease term, the Lessee must present all applicable insurance policies, certificates of insurance, and endorsements, along with a signed copy of this Lease Agreement, to the City's Risk Manager, and receive the Risk Manager's written approval as to adequacy of insurance coverage.

12.3. The insurance policies shall contain an endorsement naming the City of Longmont, Colorado, a municipal corporation and its council members, officers, agents, employees and volunteers, as additional insured parties with respect to all activities the Lessee may perform under this Lease Agreement, and shall include a notice provision requiring thirty (30) days written notice to the City before cancellation.

12.4. Only insurance companies with authority to issue policies in Colorado shall provide insurance coverage under this Lease Agreement.

12.5. For the term of this Lease Agreement, the Lessee shall not cancel, materially change, or fail to renew the insurance coverage, and the Lessee shall notify the City of Longmont's Risk Manager of any material reduction or exhaustion of aggregate policy limits. If the Lessee fails to purchase or maintain the insurance coverage stated in this Lease Agreement, the City shall have the right to procure such insurance coverage at the Lessee's expense.

12.6. Nothing in this Article shall limit the extent of the Lessee's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from the Lessee's occupancy, use or control of the premises or the Lessee's performance or nonperformance under this Lease Agreement.

13. Breach

13.1. The Lessee agrees to observe and perform the terms and conditions of this Lease Agreement. If default is made by the Lessee in the payment of rent, or any part thereof, or if the Lessee shall fail to observe or perform any term or condition of this Lease Agreement, then the City, upon written notice to the Lessee, may in its sole discretion terminate this Lease Agreement and re-enter and repossess the Property, with or without legal proceedings, using such force as may be necessary, and remove any property belonging to the Lessee without prejudice to any claim for rent or for the breach of covenants hereof. The Lessee agrees to indemnify and hold the City, its employees, and agents harmless from and against any costs for the removal of Lessee's property incurred by the City under the provisions of this paragraph.

13.2. If the City determines that the Lessee has created a public safety hazard, then the City may immediately take action to secure the safe operation of the Property, including without limitation terminating this Lease Agreement and/or removing the Lessee and any of the Lessee's equipment or crops from the Property.

14. Status of Lessee

14.1. The Lessee shall act under this Lease Agreement as an independent contractor and not as an employee, agent or joint venturer of the City. The Lessee's operations will not be supervised by any employee or official of the City, nor will the Lessee exercise supervision over any employee or official of the City. The Lessee shall not represent that Lessee is an employee, agent or joint venturer of the City. The Lessee shall supply all personnel, equipment and materials at Lessee's sole expense. **The Lessee is not entitled to Workers' Compensation benefits from the City. Lessee is not entitled to unemployment benefits unless unemployment compensation coverage is provided by the Lessee or some other entity besides the City. The Lessee is obligated to pay federal and**

state income tax on money earned pursuant to this Lease Agreement.

15. Miscellaneous Provisions

15.1. This Lease Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.

15.2. No waiver or default by the City of any of the terms, covenants, warranties or conditions hereof to be performed, kept or observed by the Lessee shall be construed as, or operate as, a waiver by the City of any of the terms, covenants, warranties or conditions herein contained, to be performed, kept or observed by the Lessee.

15.3. The Lessee agrees that the City shall be under no obligation to maintain the Property in a particular condition or for a particular use, and the Lessee waives all claims for damages of any kind or nature, whatsoever, resulting therefrom.

15.4. Article and section headings shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Lease Agreement.

15.5. The provisions of this Lease Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party of the language in question.

15.6. The Lessee shall perform all obligations under this Lease Agreement in strict compliance with all applicable laws, rules, charters, ordinances and regulations, as now exist or are later enacted or amended, of the City, and all county, state and federal entities having jurisdiction over the Property.

15.7. None of the terms, conditions or covenants in this Lease Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the City or the Lessee receiving services or benefits under this Lease Agreement shall be only an incidental beneficiary.

15.8. This Lease Agreement is an integration of the entire understanding of the parties with respect to the matters set forth herein. No representations, warranties or certifications, expressed or implied, shall exist as between the parties, except as specifically set forth in this Lease Agreement. The parties shall only amend this Lease Agreement in writing with the proper official signatures attached thereto.

15.9. Invalidation of any specific provisions of this Lease Agreement shall not affect the validity of any other provision of this Lease Agreement.

15.10. The Lessee acknowledges this Lease Agreement may be recorded with the Weld County Clerk & Recorder.

16. Notices

16.1. Any notice from one party to the other required by the terms of this Lease Agreement shall be delivered in person to such party, or shall be delivered by first class mail, postage prepaid, addressed to the respective parties as follows:

CITY:

City of Longmont
Parks and Natural Resources Department
Danielle Cassidy (or such other City staff person as the City should identify)
7 South Sunset Street, Longmont, Colorado 80501,
(or at such other place as the City may designate by notice in writing to the Lessee)

LESSEE:

Sipe Farms, LLC
1691 Weld County Road 28
Longmont, Colorado 80504

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement as of the date stated in the preamble.

CITY OF LONGMONT, COLORADO
ACTING ON BEHALF OF ITS
PARKS & NATURAL RESOURCES DEPARTMENT

MAYOR

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

ASSISTANT CITY ATTORNEY

ASSISTANT CITY MANAGER

PROOFREAD

APPROVED AS TO INSURANCE PROVISIONS:

RISK MANAGER

CA File: 24-002914

State of Colorado)
) ss.
County of Boulder)

I attest that the foregoing instrument was acknowledged before me this _____ day of
_____, 2024, by _____, as the Mayor of the City of Longmont.

Witness my hand and official seal.

CITY CLERK

LESSEE:

Chad Musick, (Lessee)

State of _____)
County of _____) ss:

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____.

(Name of person acknowledged, i.e. signing agreement)

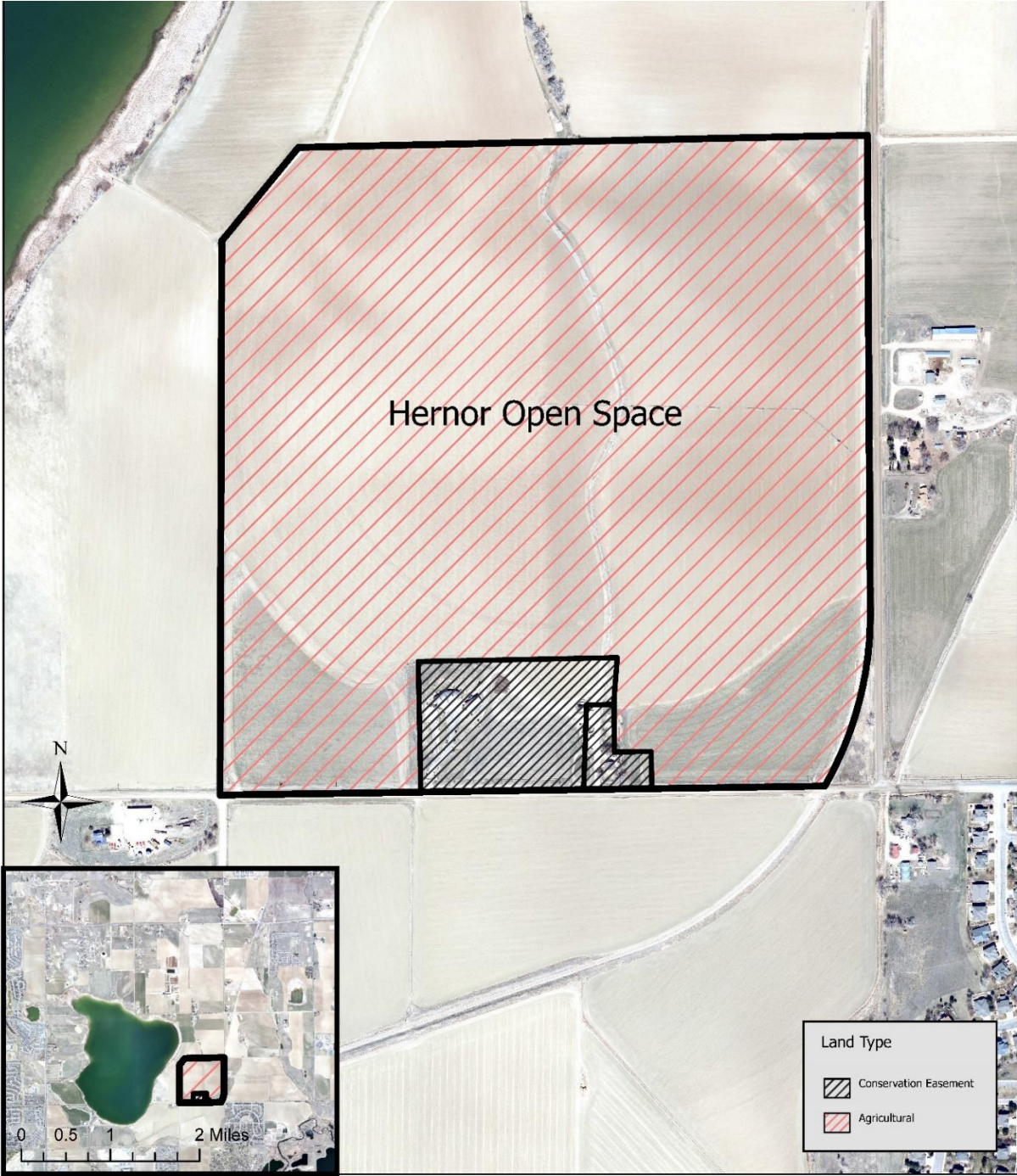
Witness my hand and official Seal.

Notary Public

Exhibit A
Hernor Farm Property Legal Description

Lot B of the Recorded Exemption Plat #1207-32-4 RE3163, according to the map recorded at Reception No. 2886587, being located in the SE ¼ of Section 32, Township 3 North, Range 68 West of the 6th Principle Meridian, County of Weld, State of Colorado.

Exhibit B Map of Leased Property



Print Date: 4/8/2024	<div> <div>Exhibit B</div> <div>Hernor Open Space</div> <div> <div>CITY of LONGMONT</div> <div> 385 Kimbark Street Longmont, CO, 80501 Phone: 303-651-8304 FAX: 303-651-8352 </div> </div> <div>  <div>PARKS & NATURAL RESOURCES DEPT.</div> </div> </div>	Project No. XXXX	Year 2024
Name: Exhibit B		Designer: XXXX	
Revisions:		Detailer: XXXX	
0 0.05 0.1 Miles		Subset Sheet:	
		Sheet Number:	1

Exhibit C**Conservation Easement****DEED OF CONSERVATION EASEMENT
HARTMAN, FRENCH, AND HERNOR OPEN SPACE LANDS**

THIS DEED OF CONSERVATION EASEMENT is made this 26th day of October, 2016, by the City of Longmont, Colorado, a municipal corporation ("Grantor"), in favor of the Longmont Conservation District, a political subdivision of the State of Colorado ("Grantee").

RECITALS:

A. Grantor is the sole owner in fee simple of certain real properties in Weld County, Colorado, more particularly described in Exhibit A attached hereto and incorporated by this reference (collectively the "Property") along with any and all other water and water rights, ditches and ditch rights, reservoirs and reservoir rights, ponds and pond rights, springs and spring rights, wells and well rights, underground water rights, both tributary and non-tributary (including any and all inchoate non-tributary groundwater rights), whether decreed or not, on, underlying, appurtenant to, or at any time used on or in connection with the land (the "Water Rights"), which are necessary for protecting the conservation values of the land. Grantee did not contribute funds for the Grantor's acquisition of the Property, nor for this Deed of Conservation Easement.

B. The Property possesses conservation value of great importance to Grantor, the people of Longmont, of Weld County and of the State of Colorado. Namely, the Property includes the Hartman Open Space, the French Open Space and the Hernor Open Space. These three constituent properties are lands that provide agricultural acreage of state and national significance and possess open space values that provide unique visual corridors and provide urban shaping buffers which provide community buffers between municipal service areas. These features constitute the Property's primary conservation values ("Conservation Values").

C. Grantor intends to preserve the Property for open space uses.

D. Grantor further intends, as owner of the Property, to convey to Grantee the right to preserve and protect the Property in perpetuity.

E. Grantee, as a governmental entity, is qualified to hold a conservation easement under section 38-30.5-104(2), C.R.S.

F. Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein.

NOW, THEREFORE, in consideration of Grantor's payment of \$10,000.00 to the Grantee for perpetual monitoring and enforcement of this Easement, and the mutual covenants, terms, recitals, conditions, and restrictions contained herein, and pursuant to the laws of the State of Colorado, and in particular section 38-30.5-101, et seq., C.R.S., Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. Purpose. It is the purpose of this Easement to assure that the Property will be retained forever in its open space condition.

2. Rights of Grantee. To accomplish the purpose of this Easement, the following rights are conveyed to Grantee by this Easement:

a. To prevent any activity on or use of the Property that is inconsistent with 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.

b. To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.

3. Restricted and Allowed Uses. The following describes the extent to which certain uses are allowed or are restricted on the Property:

a. Agriculture. Continuation of agricultural uses, including but not limited to evolving agricultural practices, that are consistent with the NRCS Technical Guide and with the City of Longmont land use regulations in effect at the time of use, as those regulations apply to the Property, are allowed. The agricultural activities shall not result in the material degradation of any surface or subsurface waters. Grantor shall not forbid any lessee of the Property from using it for agricultural purposes.

b. Wildlife Controls. Control of predatory and problem animals by the use of selected control techniques whose effect shall be only upon specific animals or species that have caused or are likely to cause damage to crops, livestock or other property, is allowed. Such control techniques shall not have material detrimental impacts upon water quality and the continued permitted uses of the Property. The use of leg-hold traps is prohibited.

c. Construction of Buildings and Other Structures. Grantor may construct public or restricted-access trails in close proximity to the perimeter of the property, pond and wetland enhancements, wildlife habitat structures, landscaping screens, structures or infrastructure related to agricultural operations, and related signage on the Property. All other signage is prohibited, and the construction or reconstruction of any other building, structure, or improvement is prohibited unless it furthers an "open space function" listed in section 4.04.130(I) of the 2016 Longmont Municipal Code ("Open Space Functions"), reworded as follows:

- i. Preservation of natural areas, wildlife habitat, wetlands, agriculture and visual corridors;
- ii. Link and trails, access to public lakes, streams and other usable open space lands, stream corridors and scenic corridors along existing highways;
- iii. Conservation of natural resources including, but not limited to, forest lands, range lands, agricultural land, aquifer recharge areas, and surface water;
- iv. District parks devoted to low-impact recreational uses;

- v. Implementing a policy or strategy of the Longmont Area Comprehensive Plan related to greenways or open space;
- vi. Urban shaping buffers between or around municipalities or community service areas and buffer zones between residential and non-residential development,

except that community parks, recreation centers, or other public open areas containing structures that are not used solely for Open Space Functions are prohibited. Prior to construction, Grantee shall have the right to consult with Grantor regarding the purposes, scale, and siting of any construction.

d. Subdivision. Any division or subdivision of title to the Property is prohibited, whether by physical or legal process, except subdivision to facilitate disposition of a portion of the Property to a public entity for transportation corridor or utility purposes as described respectively in paragraph (g) or (h), below.

e. Timber Harvesting. Trees may be cut to control insects and disease, to control invasive non-native species, and to prevent personal injury and property damage. Dead trees may also be cut for firewood and other uses on the Property. Commercial timber harvesting on the Property shall be prohibited.

f. Mining. Disturbance of the surface of the Property due to the mining of soil, sand, gravel, rock, oil, gas, or any other mineral substance is prohibited unless a third party has preexisting rights to so disturb the surface. If Grantor has the opportunity to enter into a surface use agreement with a mining operator, Grantor shall not enter into any such agreement without first obtaining Grantee's approval of the terms of the agreement.

Notwithstanding the foregoing, Grantee acknowledges the execution by and between the Grantor and TOP Operating Company of the Master Contract Concerning Consolidated Oil and Gas Exploration and Production Facilities, Property Purchase, Oil and Gas Mineral Leases and Reciprocal Compensation, and the Operator's Agreement, both recorded in Weld County on August 16, 2012 at rec. no. 3866504 (collectively, "Preexisting Agreements"). Grantee assumes no rights under the Preexisting Agreements, and the Grantor may act independently to satisfy its obligations thereunder. Grantee's approval is not required before amending either of the Preexisting Agreements. Furthermore, third parties may exercise preexisting rights on the Property incidental to preexisting mining rights, including but not limited to the right to lay pipelines or construct access roads, without the prior approval of Grantee.

g. Roadways and Transportation Corridors. Grantee shall have the right to consult with Grantor regarding any new or expanded paved public roadway, or other public transportation corridor, on the Property. Grantor shall endeavor to minimize the environmental, aesthetic, and recreational impact of any construction of such roadways or corridors. Grantor shall not construct or expand any roadway through the Property and shall not construct or expand any public transportation corridor, except along the periphery of the Property immediately adjacent to existing public transportation corridors.

h. Utilities. Grantor may construct, or permit third parties to construct, utilities that serve the Property's permitted uses, but construction of new above ground utility transmission

mains, lines, or other utility facilities on the Property, except as allowed under any existing utility easements, or under any additional utility easements that may be established pursuant to an exercise of eminent domain, or as is necessary to conduct any of the permitted uses of this Easement, is prohibited. Any such permitted utilities shall be constructed so as to minimize any adverse impacts on the Conservation Values of the Property. Notwithstanding the foregoing, the erection, construction, installation, relocation or use of a communication facility, a telecommunication facility, a network element, telecommunication equipment, or any other equipment (except for Customer Premises Equipment) or material that may be used for telecommunications or to provide telecommunications services as such terms are defined in the Federal Telecommunication Act of 1996 is prohibited. Also notwithstanding the foregoing, Grantor may construct, or permit third parties to construct, new underground utilities or pipelines to serve uses on or outside the Property, so long as Grantor reclaims all surface impacts to a former or better condition.

i. Water Rights. The degradation, pollution, or draining of any surface or sub-surface water on the Property is prohibited. The transfer, encumbrance, lease, sale, or other separation from the Property of any surface or sub-surface water rights that are appurtenant to the Property is prohibited. Grantor shall not interfere with, impede, delay, or otherwise prevent water that has historically crossed the Property to serve other properties from crossing the Property, even if said crossing is not memorialized by written easement. Grantor shall retain, reserve the right to use, and use the Water Rights in current or future agricultural production on the Property, and shall not transfer, lease, sell, or otherwise separate the Water Rights from the Property; provided, however, that in the event Grantor cannot use the Water Rights on the Property in any given year, Grantor shall notify Grantee, and Grantee may proceed to enforcement under the terms of this Easement, in Grantee's sole discretion. The foregoing notwithstanding, Grantor may use the Water Rights on other real properties owned by Grantor that have been acquired as open space through the provisions of Longmont Municipal Code Section 4.04.130. When requested by Grantee, Grantor shall provide Grantee with evidence that the Water Rights are being beneficially used, including, but not limited to, copies of reports, if any, filed with or produced by district and state water officials proving water diversions and water usage, and copies of any reports confirming crop production. If Grantor receives notice of abandonment of any component of the Water Rights, Grantor shall notify Grantee in writing within thirty (30) days of receiving such notice, and Grantor shall act affirmatively and shall cooperate with Grantee in taking any and all actions reasonably necessary to defend use of the Water Rights on the Property to prevent abandonment or forfeiture.

j. Trash. The dumping or uncontained accumulation of any kind of trash or refuse on the Property is prohibited, including but not limited to hazardous chemicals; provided, however, that agricultural equipment and machinery used on the Property for the permitted uses and that products and by-products produced on the Property may be placed or stored on the Property, so long as such placement or storage is consistent with public health standards, all applicable government laws and regulations, and sound agricultural practices.

k. Commercial, Industrial, and Residential Activity. No commercial, industrial, or residential uses shall be allowed on the Property.

l. Public Infrastructure. Public utility infrastructure may be placed on the Property to service such uses outside the Property only if the infrastructure, once installed, will be entirely underground and reclaimed.

m. Works of Art. Grantor may install or create works of art on the Property, including through its Art in Public Places program, but only upon Grantee's approval of the plans for any particular work of art. Grantor's intent is not to add structures of immoderate size that might detract from the Conservation Values, but instead to preserve the potential to enhance the public appreciation of the Conservation Values through artistic expression.

4. Reserved Rights. Grantor reserves to itself, and to its agents, successors, and assigns, all rights accruing from its ownership of the Property, including mineral rights, and including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein.

5. Baseline Report. To establish a complete inventory of the present conditions of the Property and its Conservation Values as of the date of this Easement to enable Grantee to properly monitor future uses of the Property and ensure compliance with the terms hereof, Grantee has prepared, and Grantor has signed, an inventory of the Property's relevant features and conditions ("Baseline Report"). The Baseline Report includes aerial photographs depicting various areas of the Property, a variety of maps showing important aspects of the Property, and other information important for establishing the Property's condition as of the date of this Easement. The Parties acknowledge and agree that, in the event a controversy arises with respect to the nature and extent of Grantor's use or the physical condition of the Property subject to this Easement, the Parties may use the Baseline Report and all other relevant or material documents, surveys, reports, and other evidence to assist in resolving the controversy.

6. Notice of Intention to Undertake Certain Permitted Actions. Whenever Grantee has an aforementioned right to consult on a particular activity of Grantor, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity.

7. Enforcement. Grantee shall have the right to prevent and correct or require correction of violations of the terms and purposes of this Deed. Grantee may enter the Property for the purpose of inspecting for violations. If Grantee finds what it believes is a violation, Grantee shall immediately notify Grantor in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall either (a) restore the Property to its condition prior to the violation or (b) provide a written explanation to Grantee of the reason why the alleged violation is permitted. If the condition described in clause (b) above occurs, both parties agree to meet as soon as possible to resolve this difference. If a resolution of this difference cannot be achieved at the meeting, both parties agree to meet with a mutually acceptable mediator to attempt to resolve the dispute. When, in Grantee's opinion, an ongoing or imminent violation could irreversibly diminish or impair the Conservation Values of the Property, Grantee may, at its discretion, take appropriate legal action. Grantor shall discontinue any activity which could increase or expand the alleged violation during the mediation process. Should mediation fail to resolve the dispute, Grantee may, at its discretion,

take appropriate legal action. If a court with jurisdiction determines that a violation is imminent, exists, or has occurred, Grantee may request an injunction to stop it, temporarily or permanently. A court may also issue an injunction to require Grantor to restore the Property to its condition prior to the violation.

8. Costs of Enforcement. If Grantor is required to restore any portion of the Property affected by a prohibited activity to the condition that existed prior to the undertaking of such prohibited activity, those costs shall also be borne by Grantor.

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

10. Acts beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property, or to human health or safety, resulting from such causes, so long as the Property is restored to its original or better condition if damaged by Grantor's actions under emergency conditions.

11. Costs and Liabilities. Grantor retains all responsibilities related to the ownership, operation, upkeep, and maintenance of the Property. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

12. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively, "taxes"), including any taxes imposed upon, or incurred as a result of this Easement and shall furnish Grantee with satisfactory evidence of payment upon request.

13. Condemnation. If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall hold Grantor harmless for any damage to Conservation Values resulting from the condemnation, and Grantee shall not be entitled to any proceeds arising from such event. It is the parties' intent that Grantor use all proceeds from any such condemnation to acquire additional property that fulfills one or more of Grantor's Open Space Functions, as defined in Paragraph 3(b).

14. Assignment. Grantee may assign its rights and obligations under this Easement only to an organization that is authorized to acquire and hold conservation easements under Colorado law, and only if the Grantor, in its reasonable discretion, approves the assignment. As a

condition of assignment, Grantee shall require that this Deed's conservation purposes continue to be carried out.

15. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

16. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:
City of Longmont
7 S. Sunset Street
Longmont, CO 80501

with a copy to:
City Attorney's Office
408 Third Ave.
Longmont, CO 80501

To Grantee:
Longmont Conservation District
9595 Nelson Rd., Box D
Longmont, CO 80501

or to such other address as either party from time to time shall designate by written notice to the other.

17. Recordation. Grantee shall record this instrument in 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.

18. General Provisions.

a. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Colorado. Venue shall lie only in Boulder County.

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 section 38-30.5-101, C.R.S., 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, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

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.

e. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

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. Amendment. If the circumstances arise under which an amendment to or modification of this instrument would be appropriate, Grantor and Grantee are free to jointly amend this instrument; provided that any such amendment shall be consistent with the purposes of this Easement and that no amendment shall be allowed that will affect this Easement's perpetual duration or the qualifications of this Easement under any applicable laws. Any such amendment shall be recorded in the office of the Clerk and Recorder of each county in which the Property is situated.

j. Financial Obligations. The parties' obligations under this Easement are contingent upon appropriation, budgeting and availability of specific funds to discharge those obligations. Nothing in this Easement shall be deemed a debt, direct or indirect, multi-year fiscal obligation on the part of either party, a pledge of credit, or a payment guarantee.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have executed this Deed of Conservation Easement on the day and year first above written.

GRANTOR:

CITY OF LONGMONT,
a Colorado municipal corporationDennis L. Coombs
MAYOR

ATTEST:

Valeria B. Stett
CITY CLERK10/27/16
DATE

APPROVED AS TO FORM:

[Signature]
ASSISTANT CITY ATTORNEY10/13/16
DATEP. Petrucci
PROOFREAD10/13/16
DATE


APPROVED AS TO FORM AND SUBSTANCE:

Daniel A. Radman
ORIGINATING DEPARTMENT10/25/2016
DATE

CA File: 10109


GRANTEE:

LONGMONT CONSERVATION DISTRICT,
a political subdivision of the State of Colorado

By: 
Mike Litzenberger, President

State of Colorado
Longmont Conservation District

The foregoing instrument was acknowledged before me this 21 day of October, 20 16
by Mike Litzenberger, President of the Longmont Conservation District


(Notary official signature)

3/30/2018
(Commission expiration)

SARA L. NITKE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20104008620
MY COMMISSION EXPIRES 03/30/2018

EXHIBIT A-1

Legal Description of Property

Hartman Open Space

Lot B of recorded Exemption No. 1207-29-4RE459, recorded October 22, 1980, in Book 918, as Reception No. 1839557, being a part of the Southeast Quarter of Section 29, Township 3 North, Range 68 West of the 6th P.M., County of Weld, State of Colorado, Being more particularly described as follows:

Beginning at the Southeast corner of said Section 29, thence along the South line of the Southeast Quarter South 89°36'36" West 1707.53 feet to the Southeast corner of Lot "A" of recorded Exemption No. 1207-29-4-RE459; thence along the boundary lines of said Lot "A" the following five courses, North 01°28'37" East 364.98 feet; South 89°42'55" East 104.07 feet; North 00°13'11" West 341.45 feet; South 89°37'19" West 297.12 feet; South 00°53'48" West 705.25 feet to a point on the aforesaid South line; thence South 89°36'36" West 755.22 feet to the South one-quarter corner of said Section 29; thence North 00°01'20" East 2647.50 feet to the center of said Section 29; thence North 89°30'25" East 2664.02 feet to the East one-quarter corner of said Section 29; thence South 00°08'07" West 2652.34 feet to the point of beginning, containing 157.882 acres more or less.

French Open Space

Lot B Recorded Exemption No. 1207-31-1-RE-2516, a portion of the NE 1/4 of Section 32 Township 3 North, Range 68 West of the 6th Principal Meridian, Weld County, Colorado, containing 86.02 acres more or less.

Hernor Open Space

Lot B of Recorded Exemption No. 1207-32-4 RE-3163, according to the map recorded September 26, 2001 as Reception No. 2886587, being located in the SE ¼ of Section 32, Township 3 North, Range 68 West of the 6th P.M., County of Weld, State of Colorado, containing 147 acres more or less.

EXHIBIT A-2

Conservation Easements held by Longmont Conservation District

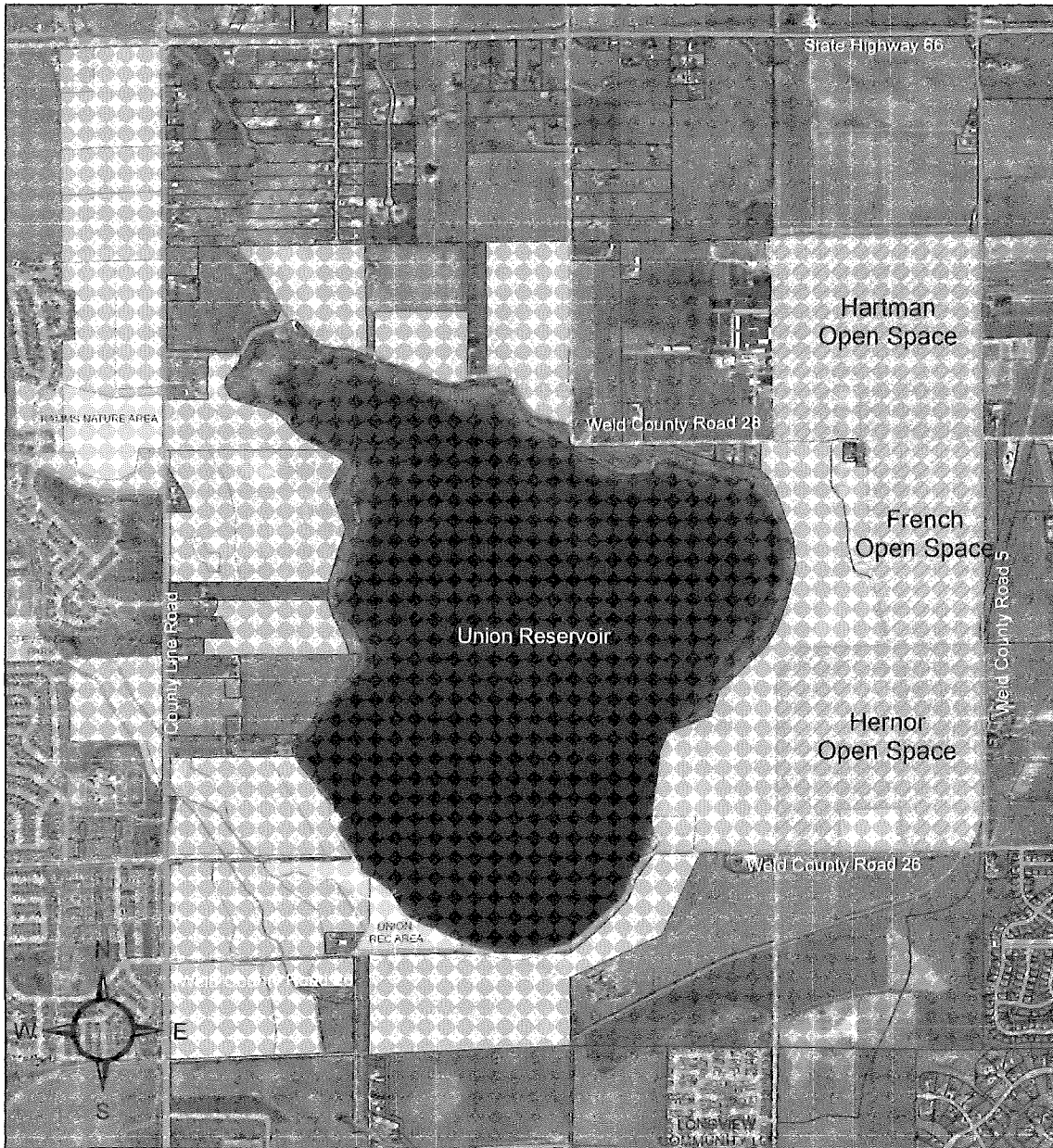
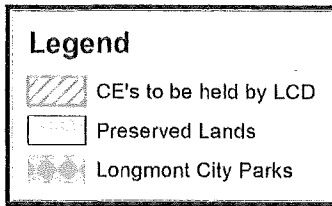


EXHIBIT A-3

Water Rights

Hartman Open Space

Highland (5 shares), CBT (17 units), McIntosh Reservoir (20 shares)

French Open Space

Highland (5.5 shares) , CBT (6 units), McIntosh Reservoir (32 shares)

Hernor Open Space

Highland (5 shares), CBT (100 units), McIntosh Reservoir (20 shares), Starbird Lateral
Ditch (Carrier Ditch Only)