This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.

ENVIRONMENTAL COVENANT

The United States of America, acting by and through the Secretary of the Air Force, under and pursuant to the powers and authority contained in the Defense Base Closure and Realignment Act of 1990, as amended (10 U.S.C. § 2687, note) ("Grantor") grants an Environmental Covenant ("Covenant") this 4th day of January, 2006 to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department") pursuant to § 25-15-321 of the Colorado Hazardous Waste Act, § 25-15-101, *et seq*. The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, the Grantor is the owner of certain property associated with the former Lowry Air Force Base ("LAFB"), located in Denver, Colorado, more particularly described in Attachment A, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as the "Property"); and

WHEREAS, pursuant to Consent Agreement Number 01-08-07-02, the Property is the subject of enforcement and remedial action pursuant to the Colorado Hazardous Waste Act, § 25-15-301, et. seq. ("CHWA"). The Property was the former base landfill (also known as Operable Unit 2 (OU2)). OU2 was historically used for disposal of Air Force waste, and associated construction waste and debris primarily from training activities conducted at LAFB. OU2 has been closed in accordance with the Phase 2 Corrective Action Plan for the Operable Unit 2 Landfill Closure at Lowry; and,

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by minimizing the potential for exposure to any hazardous substance, hazardous waste, hazardous constituents, and/or solid waste that remains in the landfill on the Property. The Covenant will accomplish this by prohibiting those activities that may interfere with the landfill cover or its monitoring or control systems and by creating a review and approval process to ensure that any such intrusive activities are conducted with appropriate precautions to avoid or eliminate any hazards; and

WHEREAS, the Grantor desires to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind the Grantor, and all parties having any right, title or interest in the Property, or any part thereof, its heirs, successors, assigns, and any persons using the land, as described herein, for the benefit of the Department.

NOW, THEREFORE, the Grantor hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 10 below, which shall run with the Property in perpetuity and be binding on Grantor and all parties having any right, title, or interest in the Property, or any part thereof, their heirs,

successors and assigns, and any persons using the land, as described herein. As used in this Environmental Covenant, the term OWNER means the record owner of the Property and, if any, any other person or entity legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

1. Use restrictions

a. Unless the Covenant is modified in accordance with the State's statute and regulations, OU2 will only be used as open space/ non-irrigated park following closure.

b. In general, the OWNER shall not use or conduct any activity on OU2 that will adversely affect:

i. the integrity of the cover
ii. the effectiveness of drainage or erosion controls
iii. slope stability, or
iv. groundwater or gas monitoring or control systems.

Specifically, no activity shall be conducted or permitted by the OWNER, nor shall the OWNER use OU2 in any manner that is inconsistent with the use designated in the preceding paragraph or that is not in compliance with the requirements of section 3.6.1(A) of 6 CCR 1007-2 or the *Final Closure Plan for the Operable Unit 2 (OU2) Landfill Closure at Lowry*, issued for review August 29, 2003, as finalized after Department review and approval.

c. The OWNER shall not extract or utilize in any manner whatsoever any water from the upper aquifer below the surface of the ground within OU2 for any purpose whatsoever, unless the OWNER shall first have obtained the prior written approval of the Department.

d. For the duration of this covenant, the Air Force shall perform all of the requirements set forth in sections 3 and 4 of the Post-Closure Operation and Maintenance Plan, Appendix E of the *Final Closure Plan for the Operable Unit 2 (OU2) Landfill Closure at Lowry*, issued for review August 29, 2003, as finalized after Department review and approval.

2. Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. The OWNER or its successors and assigns may request that the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:

a) a proposal to perform additional remedial work;
b) new information regarding the risks posed by the residual contamination;
c) information demonstrating that residual contamination has diminished;

d) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and,
e) other appropriate supporting information.

3. Conveyances The OWNER shall notify the Department at least fifteen (15) days in advance of any proposed grant, transfer, or conveyance of any interest in any or all of the Property.

4. Notice to Lessees The OWNER agrees to incorporate, either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.

5. Notification for proposed construction and land use The OWNER and/or its transferees shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use at the Property.

6. Inspections The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.

7. No Liability The Department does not acquire any liability under State law by virtue of accepting this Covenant, nor does any other named beneficiary of this Covenant acquire any liability under State law by virtue of being such a beneficiary.

8. Enforcement The Department may enforce the terms of this Covenant pursuant to §25-15-322. C.R.S. The Grantor and any named beneficiary of this Covenant may file suit in district court to enjoin actual or threatened violations of this Covenant.

9. Owner's Compliance Certification OWNER shall submit an annual Report to the Department, on the anniversary of the date this Covenant was signed by Grantor, detailing OWNER's compliance, and any lack of compliance, with the terms of this Covenant.

10. Notices Any document or communication required under this Covenant shall be sent or directed to:

Hazardous Waste Corrective Action Unit Leader
Hazardous Materials and Waste Management Leader
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

IN WITNESS WHEREOF, I have hereunto set my hand at the direction of the Secretary of the Air Force, the day and year first above written.

THE UNITED STATES OF AMERICA

By: Katy M. Halv
KATHRYN M. HALVORSON
Director
Air Force Real Property Agency

Witness:
Kathryn Peterson

Commonwealth of Virginia :
ss.
County of Arlington :

The foregoing instrument was acknowledged before me this 4th day of January, 2006, by Kathryn M. Halvorson as the Director of Air Force Real Property Agency.

PAUL C. MACPHERSON
NOTARY PUBLIC
COMMONWEALTH
OF VIRGINIA
My Commission Expires
September 30, 2009

Witness my hand and official seal

Notary Public
My Commissions Expires on September 30, 2009

(seal)

Accepted by the Colorado Department of Public Health and Environment this 13th day of January 2006.

By: Gary W. Baughman
GARY BAUGHMAN
Director
Hazardous Materials Waste Management Division

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 13th day of January 2006 by Gary W. Baughman on behalf of the Colorado Department of Public Health and Environment.

Notary Public
Address: 4300 Cherry Creek Drive Denver
My commission expires: 2-29-08

IN WITNESS WHEREOF, I have hereunto set my hand at the direction of the Secretary of the Air Force, the day and year first above written.

THE UNITED STATES OF AMERICA

By: Kathy M. Halvorson
KATHRYN M. HALVORSON
Director
Air Force Real Property Agency

Witness:

Kathryn Peters

Commonwealth of Virginia :
ss.
County of Arlington :

The foregoing instrument was acknowledged before me this 4th day of JANUARY, 2006, by Kathryn M. Halvorson as the Director of Air Force Real Property Agency.

Witness my hand and official seal

PAUL C. MACPHERSON
NOTARY PUBLIC
COMMONWEALTH
OF VIRGINIA
My Commission Expires
September 30, 2009

PAUL C. MACPHERSON COMMONWEALTH OF VIRGINIA NOTARY PUBLIC

(seal)

Notary Public
My Commissions Expires on SEPTEMBER 30, 2009

Accepted by the Colorado Department of Public Health and Environment this 13th day of January 2006.

By: Gary W. Baughman
GARY BAUGHMAN
Director
Hazardous Materials Waste Management Division

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 13th day of January 2006 by Gary W. Baughman on behalf of the Colorado Department of Public Health and Environment.

Diana L. Huber
Notary Public
Address 4300 Cherry Creek Dr S Denver
My commission expires: 2-29-08.