

**INTERGOVERNMENTAL AGREEMENT  
REGARDING PARKER JORDAN CENTENNIAL OPEN SPACE PROPERTY**

This **INTERGOVERNMENTAL AGREEMENT REGARDING PARKER JORDAN CENTENNIAL OPEN SPACE PROPERTY** (the "Agreement") is entered into this 11<sup>th</sup> day of December, 2017, by and between the **PARKER JORDAN METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"), and the **CITY OF CENTENNIAL**, a Colorado home rule municipality (the "City"); the District and the City are individually referred to herein as a "Party" and collectively referred to herein as the "Parties."

**RECITALS**

**WHEREAS**, the District was formed and exists as a special district pursuant to § 32-1-101, *et seq.*, C.R.S., generally for the purposes of providing certain public improvements, facilities and services to and for the use and benefit of the District, its residents, users, property owners and the public; and

**WHEREAS**, pursuant to § 32-1-1001(1)(d), C.R.S., the District is permitted to enter into contracts affecting its affairs; and

**WHEREAS**, the City is a duly organized and existing home rule municipality of the State of Colorado; and

**WHEREAS**, pursuant to § 29-1-203, C.R.S., the Parties are permitted to cooperate or contract with one another to provide any function, service or facility lawfully authorized to each of the Parties; and

**WHEREAS**, as of the date of this Agreement the City and the District own the 107 acre Parker Jordan Centennial Open Space property described in **Exhibit A** (the "Property") as tenants in common, each with an undivided 50% interest; and

**WHEREAS**, the Parties have operated and maintained the Property pursuant to the 2010 Intergovernmental Agreement Regarding Parker Jordan Open Space Property as amended by the April 21, 2015, First Amendment to Intergovernmental Agreement Regarding Parker Jordan Open Space Property (together, the "2010 IGA"); and

**WHEREAS**, in conjunction with the signing and effectiveness of this Agreement, the District is conveying its undivided 50% interest in the Property to the City by Special Warranty Deed and Bill of Sale (the "Deed"); and

**WHEREAS**, upon the completion of such conveyance certain terms of the 2010 IGA will no longer be relevant and the Parties desire to terminate it and replace it in its entirety with this Agreement; and

**WHEREAS**, as provided in the Deed, the City's use of the Property will be limited to passive uses as further described in this Agreement; and

**WHEREAS**, the Parties desire to enter into this Agreement to terminate and replace the 2010 IGA and delineate the allowed uses the City may make or permit on the Property.

## **AGREEMENT**

**NOW THEREFORE**, in consideration of the mutual covenants and promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

### **ARTICLE I PURPOSE**

1.1 Purpose. The purpose of this Agreement is to terminate and replace the 2010 IGA and document the terms and conditions of the City's use of the Property for a period of forty (40) years following the Effective Date as defined below.

1.2 Effective Date. This Agreement shall be effective upon the recordation of the Deed, as defined herein, in the real property records of the Arapahoe County Clerk and Recorder (the "Effective Date").

1.3 Recordation. The Parties agree this Agreement will be recorded in the real property records of the Arapahoe County Clerk and Recorder prior to the recordation of the Deed.

1.4 District Obligations. The Parties expressly acknowledge and agree that upon the Effective Date of this Agreement, the District will not have any obligation, responsibility or liability associated with the ownership, operation, maintenance or use of the Property by the City, its agents, employees or constituents, or members of the public, except as expressly set forth herein and in the Deed.

### **ARTICLE II TERMINATION OF 2010 IGA**

2.1 Termination of 2010 IGA. The Parties hereby terminate in its entirety the 2010 IGA as of the Effective Date of this Agreement.

### **ARTICLE III PERMITTED USES OF THE PROPERTY**

3.1 Permitted Uses within the Property. The Parties covenant and agree that the Property may not be used except in a manner consistent with this Article III as further described below:

3.1.1 Passive Open Space, Park and Recreation.

The Property shall generally be used for “passive open space,” and “passive park and recreation” uses only, which uses the Parties agree shall be limited to the following uses within the Property:

3.1.1.1 Trails (non-motorized use); and

3.1.1.2 Recreational uses commonly associated with and integrated into passive park land, trail, and open space areas such as, but not limited to: park benches; picnic tables; exercise stations, bicycle racks; trash cans and trash collection dumpsters, including but not limited to pet waste receptacles; water fountains; scenic overlooks; pedestrian and bicycle pull-outs or rest areas; gazebos and shelters; directional, educational, informational, and warning signage;

3.1.1.3 Up to ten calendar days of human running events annually;

3.1.1.4 Preservation, protection, management, and enhancement of natural flora and fauna; and

3.1.1.5 Any other uses not inconsistent with the uses described in this Section 3.1.1 including permissible uses of the personal property the District conveyed to the City in **Exhibit B** hereto.

3.2 Park and Recreation Facilities within the Property. The Property may contain the following park and recreation facilities:

3.2.1 Those facilities existing on the Property as of the date of this Agreement.

3.2.2 Those facilities depicted on the Parker Jordan Open Space Conceptual Plan, dated March 2010, as produced by Valerian, LLC, and modified on March 30, 2015, attached to this Agreement as **Exhibit C** and incorporated herein by reference.

3.2.3 Any facilities that are not inconsistent with the use of the property described in this Article III.

3.3 Storm Drainage Facilities and Utilities within the Property.

3.3.1 Storm drainage improvements and facilities shall be permitted within the Property, to the extent necessary to maintain the Property, to control and manage water quality and water flow of Cherry Creek through the Property, to provide for water storage, and to reasonably serve the property adjacent to the Property, which is generally described as that property located west of Parker Road, south of Broncos Parkway, north of the Arapahoe County Seventeen Mile House and east of the Property as shown in on **Exhibit D** (“Adjacent Property”).

3.3.2 Utilities, including any associated property rights required by such providers subject to the City's sole discretion to convey same, shall be permitted within the Property regardless of the location where such utility service will be provided. Utilities within the Property shall be underground, except that appurtenant facilities including but not limited to ventilators, pull boxes, electrical facilities and related apparatus may be above ground.

#### ARTICLE IV

#### EVENT OF DEFAULT, REMEDIES, AND CONFLICT RESOLUTION

4.1 Event of Default. It shall be a default hereunder if the City permits or allows uses other than those described in Article III ("Event of Default").

4.2 Remedies. Upon an Event of Default, the District shall provide notice to the City, which notice shall state explicitly the Event of Default. The City shall have fifteen (15) days to cure such Event of Default, or, to commence to cure such Event of Default if the default is of a nature that a cure cannot be completed within fifteen (15) days. If the City fails timely to cure such Event of Default, the Parties shall initiate the Dispute Resolution provisions of Section 4.3.

4.3 Dispute Resolution. If the District claims that an Event of Default has occurred and is continuing and the City has failed to cure as required in 4.2, the Parties shall follow the following dispute resolution process:

4.3.1 The District shall provide a written "Notice of Continuing Event of Default" to the City explaining the dispute and at least one alternative for a solution;

4.3.2 If the City disagrees with the District's proposed solution, it shall communicate the reasons for such disagreement in writing to the District within ten (10) business days;

4.3.3 A Resolution Committee shall be convened no later than ten (10) business days after the District's receipt of the City's written response to the Notice of Continuing Event of Default;

4.3.4 The District shall appoint two (2) board members to the Resolution Committee and the City shall appoint two (2) city councilpersons. Each Party may utilize such staff or professional services support as that entity deems appropriate;

4.3.5 Forthwith, the Resolution Committee shall meet to review such information as may be presented to the Resolution Committee, make such independent investigations, and decide the dispute by concurrence of the Resolution Committee at a meeting following reasonable notice at which all members of the Resolution Committee are present;

4.3.6 In its review of the dispute, the Resolution Committee shall review the facts and any other materials presented to the Resolution Committee, and shall make a determination as to whether an Event of Default occurred. The standards that the Resolution Committee shall use in the determination of any dispute shall include: (i) the language and intent of this Agreement and any related agreements impacting the Event of Default; (ii) the extent to which the City knew of the alleged Event of Default prior to its occurrence; (iii) the ability to prevent a continuing Event of Default; (iv) the feasibility of any proposed resolution, and (v) whether the determination substantially hinders a Party from the benefit of this Agreement, the Property or the facilities described herein and in which the Party has an interest;

4.3.7 The Resolution Committee shall provide its written decision to the Parties within thirty (30) days of the convening of the Resolution Committee;

4.3.8 Any decision of the Resolution Committee may be appealed by either Party by commencement of legal action in the Arapahoe County District Court and shall not be deemed a final decision by arbitration. If for any reason the Resolution Committee fails to render a decision within thirty (30) calendar days of being convened, then the District may seek such other remedies as may be allowed by law, including, but not limited to contractual remedies or requesting a court of competent jurisdiction to enter a temporary and/or permanent restraining order to prevent the City's violation of the use restrictions in Article III.

## **ARTICLE V GENERAL PROVISIONS**

### 5.1 Termination

5.1.1 Expiration. This Agreement shall terminate forty (40) years after the Effective Date.

5.1.2 Upon Mutual Agreement. This Agreement may be terminated prior to the date of expiration at any time by written agreement signed by the Parties.

5.2 Relationship of Parties. Nothing contained in this Agreement shall be construed as making the District or the City the partner, agent or joint venturer of the other, and the Parties shall have no relation to each other under this Agreement other than that of vendor and vendee of the Property.

5.3 No Third-Party Beneficiaries. This Agreement is between the District and the City. Nothing contained herein shall be construed as providing rights to any third-party.

5.4 Amendment. No amendment or modification of this Agreement will be valid or binding unless reduced to writing and executed by the Parties hereto to be charged with the amendment or modification.

5.5 Controlling Law/Venue. The Parties hereto expressly agree that the terms and conditions hereof, and subsequent performance hereunder, will be construed and controlled by the laws of the State of Colorado. Venue for any dispute under this Agreement shall be in the State of Colorado Arapahoe County District Court.

5.6 Interpretation. Captions and headings used in this Agreement are for convenience of reference only and will not affect the construction of any provision of this Agreement. As used herein, the singular will include the plural, and vice versa; any gender will be deemed to include the masculine, feminine and neuter gender; and the terms “including,” “include” or derivatives thereof, unless otherwise specified, shall be interpreted in as broad a sense as possible to mean “including, but not limited to,” or “including, by way of example and not limitation.”

5.7 Severability. Should any term or condition hereof be deemed void or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

5.8 Waiver. No exercise or waiver, in whole or in part, of any right or remedy provided for in this Agreement will operate as a waiver of any other right or remedy, except as otherwise provided herein. No delay on the part of any party in the exercise of any right or remedy will operate as a waiver thereof.

5.9 Article X, Section 20/TABOR. The Parties understand and acknowledge that each Party is subject to Article X, § 20 of the Colorado Constitution (“TABOR”). It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, all payment obligations of a Party are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the Party’s current fiscal period. Financial obligations of a Party payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the applicable rules, regulations, and resolutions of the Party and any other applicable law.

5.10 Entire Agreement. This Agreement and the Exhibits attached hereto embody the entire agreement between the parties hereto with respect to the subject matter hereof and supersede any and all prior agreements and understandings, written or oral, formal or informal with respect thereto.

5.11 Electronic Signatures. Electronic signatures on any part of this Agreement shall be deemed to be an original for all purposes. Any party signing this Agreement by electronic means shall promptly provide to the other party a copy with an original signature of any document signed or delivered by electronic means.

5.12 Assignment. No Party shall assign this Agreement or any interest hereunder in whole or in part, without the prior written consent of the other Party, which consent shall not be

unreasonably withheld; provided, the City hereby consents to the District's assignment of this Agreement in whole to any other governmental entity in the event that during the term of this Agreement dissolution proceedings to dissolve the District are commenced as provided by Section 32-1-701, et seq., C.R.S., as the same may be amended, and the District is fully dissolved consistent therewith. Any assignment attempted without the prior written consent of the other Party hereto shall be deemed void ab initio and of no force or effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment nor the waiver of any right to consent to such subsequent assignment.

5.13 Notices. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to or delivered to any Party hereto, by the other Parties shall be in writing and shall be deemed duly served, given or delivered when personally delivered to the Party to whom it is addressed or in lieu of such personal services, upon receipt in the United States' mail, first-class postage prepaid, addressed as follows:

To the District:

Parker Jordan Metropolitan District  
Attn: Bob Blodgett, District Manager  
8390 East Crescent Parkway, Suite 500  
Greenwood Village, Colorado 80111

With a copy to:

Spencer Fane LLP  
1700 Lincoln Street  
Suite 2000  
Denver, Colorado 80202

To the City:

City of Centennial  
Attn: City Manager  
13133 East Arapahoe Road  
Centennial, Colorado 80112

With a copy to:

City Attorney's Office  
City of Centennial  
13133 East Arapahoe Road, Suite 100  
Centennial, Colorado 80112

Any Party may change its address for the purpose of this Section by giving written notice of such change to the other Party in the manner provided in this Section.

5.14 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

5.15 Governmental Immunity. Nothing in this Agreement shall be construed as a waiver of the rights and privileges of the Parties pursuant to the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as the same may be amended from time to time.

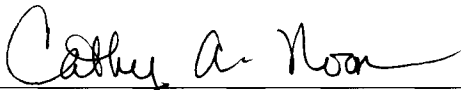
*[remainder of page intentionally left blank]*



**IN WITNESS WHEREOF**, the Parties hereto have duly executed this Agreement as of the day and year first above written.

**CITY:**

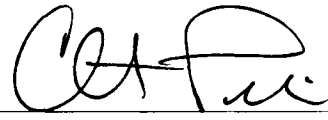
**CITY OF CENTENNIAL**, a Colorado home rule municipality

  
\_\_\_\_\_  
Cathy A. Noon, Mayor

ATTEST:

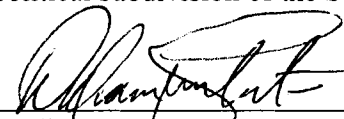
By:   
\_\_\_\_\_  
City Clerk or Deputy City Clerk

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
City Attorney's Office


**DISTRICT:**

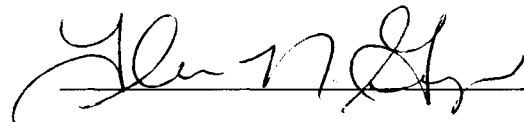
**PARKER JORDAN METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado

  
\_\_\_\_\_  
William Lambert, President

ATTEST:

APPROVED AS TO FORM:  
SPENCER FANE LLC  
General Counsel to the District

Troy Burley  
By:   
Its: Asst. Secretary

  
\_\_\_\_\_

**EXHIBIT A**

**Legal Description of Property**

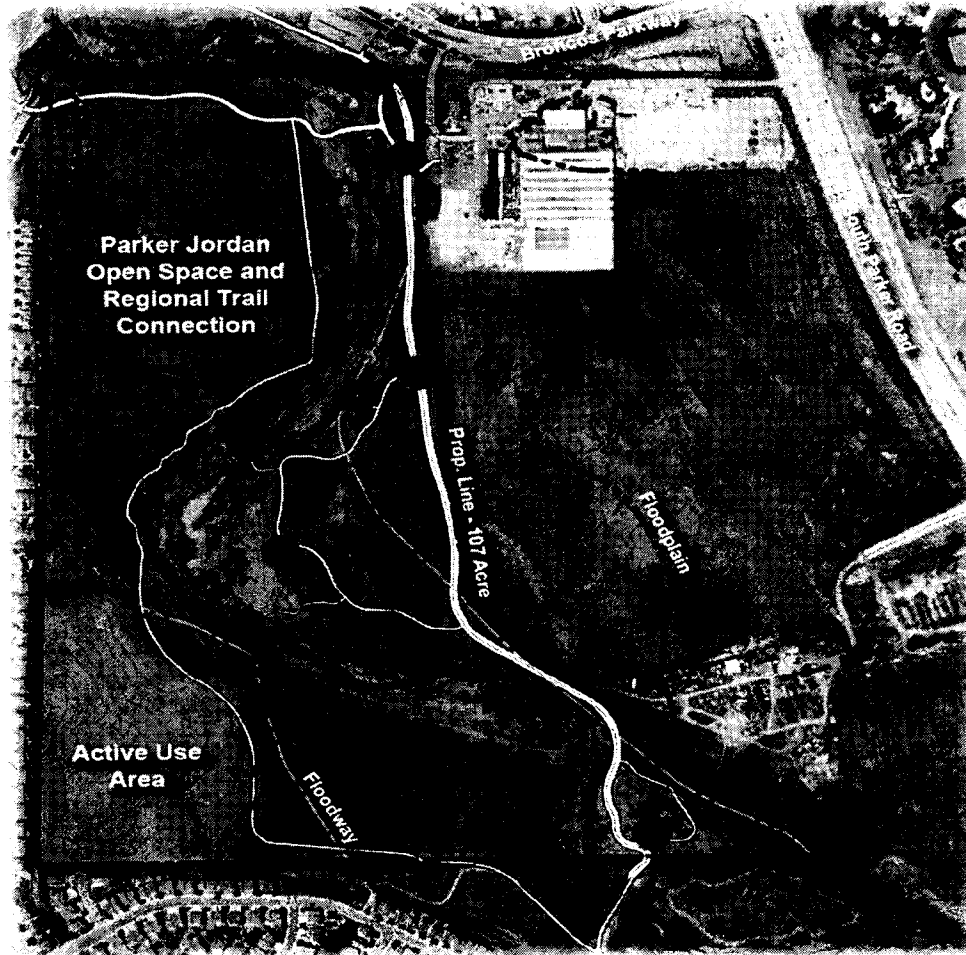
Tract A  
Parker Jordan Centennial Open Space  
City of Centennial  
Arapahoe County  
State of Colorado

## **EXHIBIT B**

### **Improvements and Personal Property Conveyed to City of Centennial**

- 13 Directional and Informational Signs (wire mesh with a log frame or post)
- 12 Log Post Signs (8 site name signs and 4 mile markers)
- 19 General Regulations Signs (restoration, carved rocks, Department of Labor)
- 3 Energi World Systems Exercise Stations
- 4 Picnic Areas (includes tables and benches)
- 12 Benches (a mix of benches made of log or log and stone)
- 12 Trash Cans (green and cedar)
- 4 Dog Waste Stations (includes signs and dog waste bags)
- Irrigation System (approximately 1,387 linear feet with 13 valves, backflow preventer, water tap, electrical system and other related equipment)
- Concrete Trail (approximately 5,344 linear feet)
- Crusher Fine Trail (approximately 11,066 linear feet)
- 1 kiosk/shelter with electronic interpersonal display and all related electrical equipment.

## EXHIBIT C Parker Jordan Open Space Conceptual Plan



- 1 - Accessible Picnic Table
- 1 - Log Bench
- 1 - Trash Receptacle

- 2 - Log Benches

- Boulder Seating

- 1 - Educational Kiosk
- 1 - Log Bench
- 1 - Trash Receptacle

- 2 - Stone Benches

- 1 - Log Bench
- 1 - Pet Waste Station

- 1 - Log Bench
- 1 - Pet Waste Station

- 1 - Accessible Picnic Table
- 2 - Picnic Tables
- 4 - Log Benches
- 2 - Trash Receptacles
- Play Area

# 107 Acre Open Space

Use Area Exhibit

March, 2010

2734 West 28th Avenue Denver CO | 80211 | p 303.347.1200 | 303.347.9341  
 94 Pike Street, Suite 36 Seattle WA | 98101 | p 206.682.1100 | 206.682.1300  
[www.valerianllc.com](http://www.valerianllc.com)

Landscape Architecture  
 Master Planning  
 Urban Design

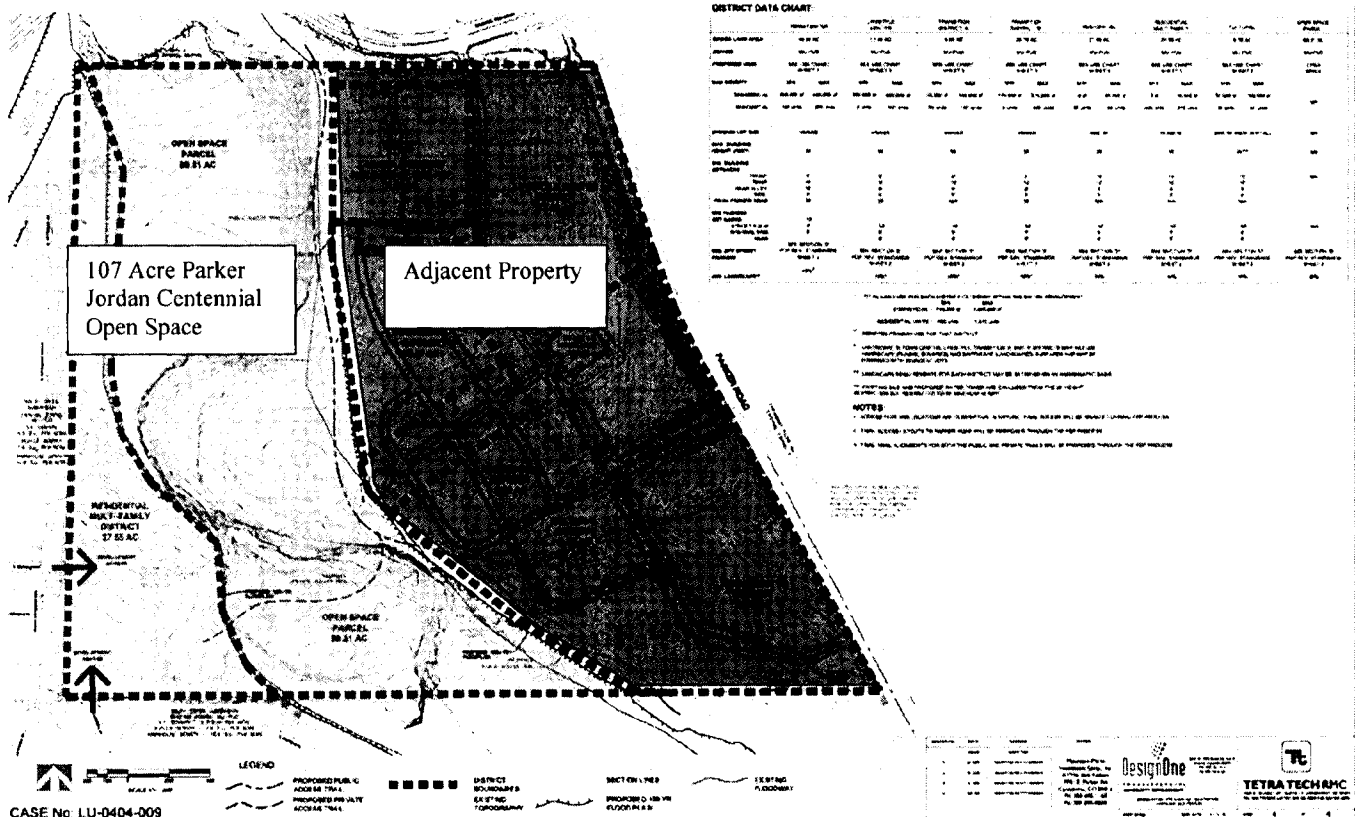


### EXHIBIT D

### Map of Adjacent Property

## VERMILION CREEK - PRELIMINARY DEVELOPMENT PLAN

A PORTION OF THE EAST 1/2 OF SECTION 32 AND THE WEST 1/2 OF SECTION 33 T5S, R66W OF THE 6th P.M., CITY OF CENTENNIAL, ARAPAHOE COUNTY, COLORADO



**DISTRICT DATA CHART**

DISTRICT	AREA (AC)	AREA (SQ FT)	AREA (SQ YD)	AREA (SQ MI)	AREA (AC)	AREA (SQ FT)	AREA (SQ YD)	AREA (SQ MI)	AREA (AC)	AREA (SQ FT)	AREA (SQ YD)	AREA (SQ MI)
RESIDENTIAL SINGLE-FAMILY	107.00	4,620,000	513,333	0.134	107.00	4,620,000	513,333	0.134	107.00	4,620,000	513,333	0.134
RESIDENTIAL MULTI-FAMILY	27.00	1,116,000	123,333	0.034	27.00	1,116,000	123,333	0.034	27.00	1,116,000	123,333	0.034
OPEN SPACE	134.00	5,364,000	593,333	0.158	134.00	5,364,000	593,333	0.158	134.00	5,364,000	593,333	0.158
TOTAL	268.00	10,900,000	1,230,000	0.326	268.00	10,900,000	1,230,000	0.326	268.00	10,900,000	1,230,000	0.326

**NOTES**

1. THIS PLAN IS A PRELIMINARY DEVELOPMENT PLAN AND IS SUBJECT TO THE APPROVAL OF THE CITY OF CENTENNIAL AND ARAPAHOE COUNTY.
2. THE DISTRICTS SHOWN ON THIS PLAN ARE SUBJECT TO THE CITY OF CENTENNIAL ZONING ORDINANCE AND ARAPAHOE COUNTY ZONING ORDINANCE.
3. THE DISTRICTS SHOWN ON THIS PLAN ARE SUBJECT TO THE CITY OF CENTENNIAL SUBDIVISION MAP ACT AND ARAPAHOE COUNTY SUBDIVISION MAP ACT.
4. THE DISTRICTS SHOWN ON THIS PLAN ARE SUBJECT TO THE CITY OF CENTENNIAL PLANNING AND ZONING COMMISSION AND ARAPAHOE COUNTY PLANNING AND ZONING COMMISSION.
5. THE DISTRICTS SHOWN ON THIS PLAN ARE SUBJECT TO THE CITY OF CENTENNIAL PLANNING AND ZONING COMMISSION AND ARAPAHOE COUNTY PLANNING AND ZONING COMMISSION.

CASE No LU-0404-009