

OFFICIAL RECORD

Requested By:

STEWART TITLE

APN 1319-01-000-004, 005, 006,
008,009, 010, 007, 003,
1319-12-000-007, 008, 002, 006,
003, 009, 010, 011

050100976A

APN _____

Douglas County - NV
Werner Christen - Recorder

Page: 1 Of 24 Fee: 37.00
BK-0405 PG- 3193 RPTT: 0.00



Recording Requested By:

Stewart Title of Douglas County

1650 N. Lucerne, Ste. 101

Minden, NV 89423

GRANT OF AGRICULTURAL EASEMENT
(Title of Document)

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THEREIN.**

STEWART TITLE OF DOUGLAS COUNTY

This page added to provide additional information required by NRS 111.312 Sections 1-2.
(Additional recording fee applies)

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RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Ranch Open Space of Nevada, Inc.
285 10th Street
P.O. Box 310
Elko, Nevada 89801
Attn: Preston Wright

Space Above Reserved for Recorder

GRANT OF AGRICULTURAL CONSERVATION EASEMENT

This GRANT OF AGRICULTURAL CONSERVATION EASEMENT (the "Grant") is made this 6th day of April, 2005, by and between **GALEPPI LAND & LIVESTOCK CO.**, a Nevada corporation ("Grantor"), and **RANCH OPEN SPACE OF NEVADA, INC.** - a Nevada nonprofit public benefit corporation ("Grantee").

RECITALS

A. Grantor is the sole owner in fee simple of approximately seven hundred (700) acres of farm property known as the "Galeppi Ranch" located in Douglas County, Nevada, more particularly described in Exhibit A attached hereto and incorporated herein by this reference, together with the improvements located thereon (collectively, the "Property").

B. The Property, the majority of whose soils have been classified as unique farmland of statewide and local importance by the National Resource Conservation Service, United States Department of Agriculture because of the fertility of its soils, is primarily open farmland currently utilized by Grantor for livestock grazing and irrigated field crop farming (the "farmland values"). Together with the farmland values, the Property also provides significant natural habitat for native wildlife and plants and possesses natural, scenic, open space, historical, educational and/or recreational value (collectively the "conservation values") of great importance to Grantee, the people of Douglas County and the State of Nevada.

C. Grantor intends that the farmland values and the other conservation values of the Property be preserved and maintained by continuing Grantor's existing uses of the Property at the time of this Grant, which consists of livestock grazing and irrigated field crop farming.



D. Grantor and Grantee recognize the agricultural, scenic, aesthetic and special character of the region in which the Property is located, and have the common purpose to preserve and protect the farmland values and the other conservation values of the Property in perpetuity and to prevent the development of the Property for any purpose or in any manner which would conflict with the maintenance of the Property in its current condition as farmland and grazing land.

E. The conservation purposes of this Grant are recognized by, and this Grant will serve the clearly delineated governmental conservation policies contained in the Farmland Protection Policy Act (P.L. 97-98, 7 U.S.C. Sections 4201 *et seq.*), whose purpose is to "minimize the extent to which Federal programs and policies contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government and private programs and policies to protect farmland."

F. The conservation purposes of this Grant are further recognized by, and this Grant will serve the clearly delineated governmental conservation policies and goals contained in pages 4.062-4.066 of the Douglas County, Nevada Master Plan, as adopted April 18, 1996, whose goals include creation of alternatives to the urban development of existing agricultural lands, such as development rights transfers as authorized under Chapter 20-500 *Transfer Development Rights* of the Douglas County Consolidated Development Code, as revised February 2003.

G. Grantee is a publicly supported, tax-exempt nonprofit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended (the "Code"), whose primary purpose is the preservation, protection or enhancement of agricultural land and associated lands in its scenic and/or open space condition.

H. Grantee agrees by accepting this Grant to honor the intentions of Grantor as set forth in this Grant to preserve and protect in perpetuity the farmland values and the other conservation values of the Property for the benefit of this generation and the generations to come.

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the laws of the State of Nevada, Grantor hereby voluntarily grants and conveys to Grantee, and Grantee hereby accepts, an agricultural conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. **Purpose.** The purpose of the Easement is to protect and preserve the agricultural, open space, natural and scenic values of the Property and to prevent any uses of the Property that will significantly impair or interfere with those values by preventing any future development or improvement of the Property and preventing any use of the Property that will significantly impair or interfere with the farmland values or the other conservation values of the Property, except to the extent such improvement of the Property and uses of the Property are expressly permitted under this Grant. This purpose, as further defined by the provisions of this Agreement, is



generally referred to herein as "the conservation purpose of this Easement." Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the conservation purpose of this Easement, including agricultural uses and residential uses and other improvements to the extent associated with the agricultural uses.

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

(a) To identify, preserve and protect in perpetuity the farmland values and the other conservation values of the Property;

(b) To enter upon the Property, on an annual basis and on a more frequent basis only if Grantee has reason to believe that Grantor's use of the Property is in violation of the provisions of this Grant, in order to inspect and observe the Property for the purposes of (i) identifying the current uses and practices of the Property, (ii) monitoring the uses and practices of the Property to determine whether they are consistent with this Grant, and (iii) enforcing the rights granted herein; *provided*, that any such entry upon the Property by Grantee shall be at reasonable times, upon reasonable prior notice and in a manner which does not unreasonably interfere with the use of the Property being made by Grantor, or any lessee, permittee or licensee of Grantor; *provided further*, that Grantee shall on an annual basis, provide Grantor and the Director of the Douglas County Community Development Department a copy of the annual monitoring report; and

(c) To prevent any activity on or use of the Property that is inconsistent with the conservation purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the conservation purpose of this Easement is prohibited. Without limiting the foregoing, the activities and uses of the Property set forth in Exhibit B attached hereto and incorporated herein *by reference* are expressly deemed to be inconsistent with the conservation purpose of this Easement and are prohibited. Grantor understands and acknowledges that nothing contained in this Grant relieves Grantor of any obligation or restriction on the use of the Property imposed by law.

4. **Reserved Rights.** Grantor reserves to itself, and to its personal representatives, heirs, successors and assigns, all rights accruing from its ownership of the Property, 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 and are not inconsistent with the conservation purpose of this Easement. Without limiting the foregoing, the uses of the Property set forth in Exhibit C attached hereto and incorporated herein by reference are expressly deemed to be consistent with the conservation purpose of this Easement and may not be precluded or limited.

The uses and practices set forth in Exhibits B and C are *not necessarily exhaustive* recitals of inconsistent and consistent uses and activities, respectively. They are set forth both to

establish specific prohibited and permitted activities and to provide guidance in determining the consistency of other activities with the conservation purpose of this Easement.

5. **Grantor's Present Use of Property.** Grantee acknowledges by acquisition of the rights granted and assigned by this Grant that the historical and present uses of the Property are compatible with the conservation purpose of this Easement.

6. **Development Rights and Consolidation of Property.**

(a) **Development Rights.** Grantor represents and warrants to Grantee that the primary purpose of this Grant is to provide that all development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property be recognized by the Douglas County Community Development Department and transferred from the Property under the authority of the Douglas County Transfer of Development Rights Program.

(b) **Consolidation of Property.** Notwithstanding the fact that the Property consists of several legally recognized parcels that are described on the parcel map referred to in Exhibit A, an additional purpose of this Easement is to consolidate the Property into a single parcel to simplify the ability of Grantee to monitor Grantor's compliance with the conservation purpose of this Easement. Accordingly, except as otherwise provided below, any further division, subdivision, or defacto subdivision of the Property, whether by physical or legal process, is prohibited. However, Grantor may divide the Property into not more than two parcels, subject to the following restrictions. First, such division may occur only in conjunction with the sale, exchange, or other disposition of either or both of the resulting parcels. Second, the smaller of the two resulting parcels may not contain less than 100 acres. Third, each of the resulting parcels must be a separate parcel that is legally recognized by all governmental agencies with jurisdiction over the Property and that complies with all applicable governmental laws, ordinances, rules, and regulations related to such division. (However, each of the resulting parcels may consist of two or more separate parcels that in the aggregate contain not less than 100 acres so long as each of the separate parcels satisfies the requirements described above. Thereafter, all of the separate parcels that comprise the resulting parcel permitted by this subparagraph are to be considered a single parcel for the purposes of this Easement.) Fourth, Grantor must contribute to Grantee's conservation easement monitoring endowment an amount equal to one percent (1%) of the aggregate sales price (or, in the case of an exchange or other disposition, 1% of the fair market value) of each parcel that is sold, exchanged, or otherwise disposed of in conjunction with the division of the Property. If only one of the resulting parcels is sold, exchanged, or otherwise disposed of in conjunction with the division of the Property, then upon the subsequent sale, exchange, or other disposition of the retained parcel, Grantor must contribute to Grantee's conservation easement monitoring endowment an amount equal to one percent (1%) of the aggregate sales price (or, in the case of an exchange or other disposition, 1% of the fair market value) of that parcel. However, contributions are not to be required with respect to any subsequent sales, exchanges, or other dispositions of the two resulting parcels. Fifth, the two resulting parcels may not thereafter be further divided, although each such parcel may be subsequently sold, exchanged, or otherwise disposed of by its owner. Sixth, any division of the Property that is permitted by this subparagraph will not confer any development rights on

the resulting parcels or otherwise modify any of the terms of this Easement. Each of the two resulting parcels is to remain subject to this Easement.

7. **Conservation Practices.** All farming and ranching operations on the Property shall be conducted in a manner consistent with best management practices as may be recommended by the Natural Resource Conservation Service (NRCS) that addresses soil and water conservation, pest management, nutrient management and habitat protection and in compliance with any other applicable federal, state or local law, statute, rule, regulation or ordinance. Grantor is encouraged to develop a conservation plan in cooperation with the NRCS which plan shall be updated periodically and at such time that the basic type of agricultural operation on the Property changes or at the time fee ownership of the Property changes. Upon Grantee's request, Grantor shall make such conservation plan available to Grantee for review and comment. In the event Grantee desires Grantor to institute a suggested management practice and Grantor rejects such suggestion solely because the practice is not economically feasible for a viable commercial ranch operation, then Grantee may require Grantor to institute such practices only if and to the extent that (i) failure to institute such practice would result in a violation of applicable law, in which event Grantor shall bear the costs of such compliance, or (ii) Grantee directly, or indirectly through government grants, subsidies or other sources, provides Grantor with all of the funds reasonably necessary for Grantor to institute such practice. Grantor shall not be required to engage in any ranch management practice which is not economically feasible for a viable commercial ranch management operation.

8. **Water Rights.** Grantor shall retain, maintain and preserve the right to use all water rights appurtenant to the Property for all purposes consistent with the conservation purpose the Easement, and Grantor shall not transfer, encumber, lease, sell or otherwise sever any such water rights from the Property. Grantor's uses of all water rights appurtenant to the Property must be consistent with the conservation purpose of the Easement. Grantor and Grantee acknowledge that the only water rights referred to herein that are appurtenant to the Property are those water rights that were established under the "Alpine Decree of 1980." Grantor and Grantee further acknowledge and agree that Grantor's water rights that are evidenced by (a) Alpine Land & Reservoir Company stock certificate number 562 and (b) Grantor's agreement with the Minden Gardnerville Sanitation District that was recorded with the County Recorder of Douglas County, Nevada, on February 17, 2005, as Document Number 636964 are not appurtenant to the Property, are retained by Grantor as its separate property, and are not restricted by this Easement or by the Douglas County Transfer of Development Rights Program.

9. **Third Party Rights.** No restriction on the use of the Property expressed herein is intended, nor shall any such restriction be construed, to limit unreasonably any duly recorded valid pre-existing right held by any third party to use the Property.

10. **Access.** No right of access by the general public to any portion of the Property is conveyed by this Grant. Nothing in this Grant shall be construed to preclude Grantor's right to grant access to third parties across the Property; *provided*, that the access granted is consistent with the conservation purpose of this Easement.

11. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property, including the maintenance of adequate and customary comprehensive general liability insurance coverage. Grantee shall have no obligation for the upkeep or 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; *provided*, that nothing in this sentence shall prohibit Grantor from recording a deed of trust against the Property to secure Grantor's indebtedness as long as such deed of trust shall remain subordinate to this Grant. Grantor shall provide to Grantee a certificate of insurance evidencing the insurance policy obtained by Grantor and shall provide Grantee written evidence of any renewal of such insurance coverage or the issuance of a new insurance policy.

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 result of, the Easement. Grantee shall have no obligation to pay any taxes levied on or assessed against the Property.

13. **Resolution of Issues/ Remedies.**

(a) **Notice and Opportunity to Cure.** If either party to this Grant (the "Non-Defaulting Party") determines that the other party (the "Defaulting Party") is in violation of any term of this Grant or that a violation is threatened, the Non-Defaulting Party shall deliver written notice to the Defaulting Party of such violation. Not later than fourteen (14) days after the delivery of such written notice the parties shall meet on the Property with a mutually acceptable rangeland resource advisor to discuss the circumstances of the asserted violation and to attempt to agree on appropriate corrective action. If the parties are unable to so agree, the Non-Defaulting Party shall deliver a further written notice to the Defaulting party to demand particular corrective action to cure the violation and, if the violation or threatened violation involves injury to the Property resulting from any use or activity inconsistent with the Easement Purpose, to restore the portion of the Property so injured. The Defaulting Party shall cure the violation within thirty (30) days after receipt of such further notice thereof from the Defaulting Party, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, shall commence curing such violation as soon as possible within such thirty (30) day period and shall continue diligently to cure such violation until finally cured. The opinions of the mutually acceptable rangeland resource advisor engaged to assist the parties in the resolution of an asserted violation shall be admissible in any judicial proceedings conducted with respect to that asserted violation.

(b) **Non-Binding Mediation.** If the Defaulting Party disagrees with the Non-Defaulting Party respecting the existence or threatened existence of a violation by the Defaulting Party of any provision of this Grant, then the Defaulting Party and the Non-Defaulting Party may elect to submit such dispute to non-binding mediation, using either the Commercial Arbitration Rules of the American Arbitration Association ("AAA") or Judicial Arbitration and Mediation Services,



Inc. ("JAMS"). Venue for any mediation proceedings under this Section 13 shall be in Minden, Nevada, or another mutually acceptable location and the cost of such mediation proceedings shall be shared equally by the parties.

(c) **Judicial Remedies.** If (i) the parties are unable to resolve any dispute through the non-binding mediation proceedings set forth in Section 13(b) within thirty (30) days of the commencement of such proceedings; or (ii) the parties do not mutually agree to submit their dispute to mediation pursuant to Section 13(b), and (iii) the Defaulting Party fails to cure the violation within thirty (30) days after receipt of the further notice thereof from the Non-Defaulting Party, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, the Non-Defaulting Party may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including damages for the loss of scenic, agricultural, aesthetic or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting the Defaulting Party's liability therefor, the Non-Defaulting Party may apply any damages recovered to the cost of undertaking any corrective action on the Property.

(d) **Emergency Relief.** If the Non-Defaulting Party reasonably determines that circumstances require immediate action to prevent or mitigate significant, long-term damage to the Conservation Values, the Non-Defaulting Party may pursue its remedies under this Section 13 without prior notice to the Defaulting Party or without waiting for the period provided for cure to expire.

(e) **Cumulative Remedies.** Each party's rights under this Section 13 apply equally in the event of either actual or threatened violations of the terms of this Easement, and each party agrees that the remedies at law for any violation of the terms of this Easement are inadequate and that the Non-Defaulting Party shall be entitled to the injunctive relief described in Section 13(c), both prohibitive and mandatory, in addition to such other relief to which the Non-Defaulting Party may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Each party's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. The failure of either party to discover a violation or to take immediate legal action shall not bar such party from taking such action at a later time.

14. **Cost of Enforcement.** Any costs incurred by Grantee in enforcing the terms of this Grant against Grantor, including, without limitation, costs of suit and attorneys' fees, and any costs of restoration necessitated by Grantor's violation or negligence under the terms of this Grant, shall be borne by Grantor; *provided*, that Grantee shall bear the costs of any of Grantee's

annual inspections of the Property performed pursuant to Section 2(b) of this Grant. If Grantor prevails in any action to enforce the terms of this Grant, Grantor's costs of suit, including without limitation, reasonable attorneys' fees, shall be borne by Grantee, to the extent permitted by law.

15. **Grantee's Discretion.** Enforcement of the terms of this Grant shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Grant in the event of any breach of any term of this Grant 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 Grant or of any of Grantee's rights under this Grant. 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.

16. **Acts Beyond Grantor's Control.** Nothing contained in this Grant 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 resulting from such causes.

17. **Baseline Documentation for Enforcement.** Grantee acknowledges by acquisition of the rights granted and assigned by this Grant that the present agricultural uses of the Property are consistent with the conservation purpose of the Easement. In order to establish the present condition of the Property's protected values, Grantee will prepare a baseline documentation report. Not later than ninety (90) days after the date of the creation of this Easement, Grantee, at its sole cost, shall develop baseline photographic and written documentation of the existing conditions of the Property, including photographic documentation of any baseline problem conditions. Grantee shall provide Grantor, free of charge, one complete copy of all of the baseline documentation promptly after it is prepared. Grantor shall cooperate with Grantee's efforts in preparing the baseline documentation, and Grantor shall accept the baseline survey as evidence of the condition of the Property at the time of conveyance of this Grant. The baseline documentation report will be maintained on file with Grantee and is intended to serve as an objective information baseline for monitoring compliance with the terms of this Agreement. Grantor and Grantee recognize that changes in economic conditions, in agricultural technologies, in locally accepted agricultural management practices, in natural resource management practices, and in the situation of Grantor may dictate an evolution of agricultural and natural resources management of the Property, consistent with the conservation purpose of this Easement.

18. **Hold Harmless.** Grantor shall hold harmless, indemnify and defend Grantee and its members, directors, officers, employees, agents and contractors and heirs, personal representatives, successors and assigns and each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence or

willful misconduct of any of the Indemnified Parties; (b) the breach by Grantor of any of its obligations set forth in this Grant; (c) the existence or administration of this Grant; and (d) the existence on or under the Property of any hazardous waste, substance or other contaminants as they are now and may hereafter be defined under any local, state and federal statute, law or regulation.

19. **Interpretation and Construction.** To the extent this Grant may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be interpreted and construed liberally in such a way that meets the conservation purpose of this Grant and the goals referenced in the recitals and under Section 1 hereof. It is the intention of the parties that any interpretation or construction shall promote the conservation purpose of this Easement. If any provisions of this Grant or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Grant and the applications of such provisions to persons or circumstances, other than those as to which it is found to be invalid, shall not be affected thereby.

20. **Assignment.** In the event that Grantee decides to assign its interest under this Easement, Grantee shall provide Grantor with written notice of such intention and shall allow Grantor a period of not less than ninety (90) days within which to designate an assignee that will be a public entity or an organization that is a qualified organization at the time of transfer under Section 170(h) of the Code and authorized to acquire and hold conservation easements under Nevada law and only if the agency or organization expressly agrees to assume the responsibility imposed on Grantee by this Grant. In the event that Grantor is unable or chooses not to make such a designation, Grantee may proceed to assign all, but not less than all, of its rights under this Easement to a public entity or to an organization that is authorized to acquire and hold conservation easements under Nevada law. If Grantee ever ceases to exist or no longer qualifies under Section 170(h) of the Code and applicable state law, a court of competent jurisdiction shall transfer this Easement to another qualified organization having substantially similar purposes, and which is willing and financially able to assume all of the responsibility imposed on Grantee under this Easement; provided, that Grantor shall be provided notice of and an opportunity to participate in the court proceedings.

21. **Subsequent Transfers.** Grantor agrees to incorporate the terms of this Grant in any deed or other legal instrument by which Grantor divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest, and to attach a copy of this Grant to any such instrument. Grantor further agrees to give written notice to Grantee of the transfer of any interest in the Property at least thirty (30) 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 Grant or limit its enforceability in any way.

22. **Perpetual Duration.** The Easement created by this Grant shall constitute a servitude running with the land in perpetuity. Every provision of this Grant that applies to Grantor or Grantee shall also apply to such party's respective agents, heirs, executors, administrators, assigns and all other successors as their interests may appear.



23. **Grantor's Representations and Warranties.** Grantor hereby represents and warrants to Grantee that: (a) Grantor has good and sufficient title to the Property, free from all liens and encumbrances and hereby promises to defend Grantee against any liens or encumbrances that may be asserted against Grantee or the the Property; and (b) except for normal releases and uses of hazardous substances on the Property by Grantor in the ordinary course of Grantor's farming operations and in compliance with all applicable federal, state and local environmental laws, Grantor has no actual knowledge of any release or threatened release of hazardous substances or wastes on the Property. Grantor hereby promises to defend, indemnify and hold harmless Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with any release or threatened release of hazardous waste or violation of federal, state or local environmental laws.

24. **Notices.** Any notice, demand, approval, consent, or other communication required or desired to be given hereunder in writing shall be given in the manner set forth below, addressed to the party to be served at the addresses set forth below, or at such other address for which that party may have given notice under the provisions of this Section. Any notice, demand, approval, consent, or other communication given by (a) mail shall be deemed to have been given three (3) days after deposited in the United States mail, postage prepaid, certified and return receipt requested; (b) overnight common carrier courier service shall be deemed to be given on the business day (not including Saturday) immediately following the date it was deposited with such common carrier; and (c) delivery in person or by messenger shall be deemed to have been given upon delivery in person or by messenger.

Grantor: Galeppi Land & Livestock Co.
560 Genoa Lane
Minden, Nevada 89423
Attention: Dallas and Barbara Byington
Tel: (775) 782-2368

Grantee: Ranch Open Space of Nevada, Inc.
285 10th Street
Elko, Nevada 89801
Attn: Paul Pugsley
Tel: (775) 721-0280

25. **General Provisions.**

(a) **Governing Law.** The interpretation and performance of this Grant shall be governed by the laws of the State of Nevada.



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(b) **Entire Agreement.** This Grant sets forth the entire agreement between the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Easement, all of which are merged herein.

(c) **Severability.** If any provision of this Grant, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Grant, 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) **No Forfeiture.** Nothing contained herein will result in a forfeiture or revision of Grantor's fee title to the Property in any respect.

(e) **Amendment.** This Grant may be amended only with the written consent of Grantor and Grantee. Any such amendment shall be consistent with the conservation purpose of this Easement and shall comply with Section 170(h) of the Code, and any regulations promulgated thereunder, and shall be consistent with applicable state law.

(f) **Successors.** The covenants, terms, conditions and restrictions of this Grant 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) **Counterparts.** The parties may execute this Grant in two or more counterparts, which shall, in the aggregate, be signed by both parties, and each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

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(h) **Drafting.** The parties hereto agree that this Grant is the product of joint draftsmanship and negotiation and that should any of the terms be determined by a court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the same sentences, phrases, clauses or other wordage or language of any kind shall not be construed against the drafting party.

IN WITNESS WHEREOF, Grantor has executed this Grant of Conservation Easement this 6th day of April, 2005.

GRANTOR:

GALEPPI LAND & LIVESTOCK, a
Nevada corporation

Dated: 4-8, 2005

By: BARBARA G. Byington

Name: Barbara G. Byington

Title: Treasurer

GRANTEE:

RANCH OPEN SPACE of NEVADA
A Nevada Ranch and Rangeland Trust

Dated: April 6, 2005

By: Devere Dressler

Name: Devere Dressler

Title: Vice President

EXHIBITS:

- A - Legal Description of the Property
- B - Prohibited Uses and Practices
- C - Permitted Uses and Practices
- D - Douglas Count Transfer of Development Rights Program Restrictions
- E - Map of the Property



STATE OF Nevada
COUNTY OF Douglas } SS. }

This instrument was acknowledged before me on 4-8-05, by
Barbara G. Byington

WITNESS my hand and official seal.

Signature [Handwritten Signature]



COPY



STATE OF Nevada
COUNTY OF Douglas ^{SS.}

This instrument was acknowledged before me on 4-6-05, by
Aneve Dressler

WITNESS my hand and official seal.

Signature [Signature]



COPIES

**Exhibit A to Grant of
Agricultural Conservation Easement**

LEGAL DESCRIPTION OF THE PROPERTY

The real property referred to in this Grant of Agricultural Conservation Easement as the "Property" is located in Douglas County, Nevada, and is legally described as follows:

Being a portion of Sections 1, 12 and 13 in Township 13 North, Range 19 East, M.D.B.&M., further described as follows:

PARCEL 1:

Parcels 1 through 13, inclusive, and 15 as set forth on map of Division Into Large Parcels for Galeppi Land and Livestock, recorded June 2, 1995, in Book 695, Page 159, as Document Number 363315, Official Records of Douglas County, State of Nevada.

A.P.N.'S 1319-01-000-004 THROUGH 1319-01-000-010, 1319-12-000-007, 1319-12-000-008, 1319-01-000-00, 1319-12-000-002, 1319-12-000-006, 1319-12-000-003, 1319-12-000-009

PARCEL 2:

A parcel of land located within a portion of Section 12, Township 13 North, Range 19 East, MDM, Douglas County, Nevada, being more a particularly described as follows:

BEGINNING at the Northeast corner of Lot 16, as shown on the Map of Division Into Large Parcels for Galeppi Land and Livestock, Document No. 363315 of the Douglas County Recorder's Office, which bears North 00°00'13" West, 3197.00 feet from the Southeast corner of said Section 12; thence South 00°00'13" East, along East line of said Lot 16, 716.39 feet; thence North 89°51'27" West, 2780.81 feet to the West line of Lot 17 as shown on said Map of Division Into Large Parcels; thence North 02°24'30" East, along West line of said Lot 17 and Lot 16, 716.95 feet to the North line of said Lot 16; thence South 89°51'27" East, along said North line, 2750.64 feet to the POINT OF BEGINNING.

Basis of Bearing:

East line of Section 12, Township 13 North, Range 19 East, MDM as shown on the Map of Division Into Large Parcels for Galeppi Land and Livestock, Document No. 363315 of the Douglas County Recorder's Office. (North 00°00'13" West)

Said land more fully disclosed as a adjusted APN 1319-12-000-010, on that certain Record of Survey recorded as Document No. 6377383.

APN 1319-12-000-015

1319-12-000-010, on that certain Record of Survey recorded as Document No. 6377383.

APN 1319-12-000-015

"IN COMPLIANCE WITH NEVADA REVISED STATUTE 111.312, THE
HEREIN ABOVE LEGAL DESCRIPTION WAS TAKEN FROM INSTRUMENT
RECORDED FEBRUARY 23, 2005, BOOK 0205, PAGE 8305, AS FILE
NO. 0637382, RECORDED IN THE OFFICIAL RECORDS OF DOUGLAS
COUNTY, STATE OF NEVADA."

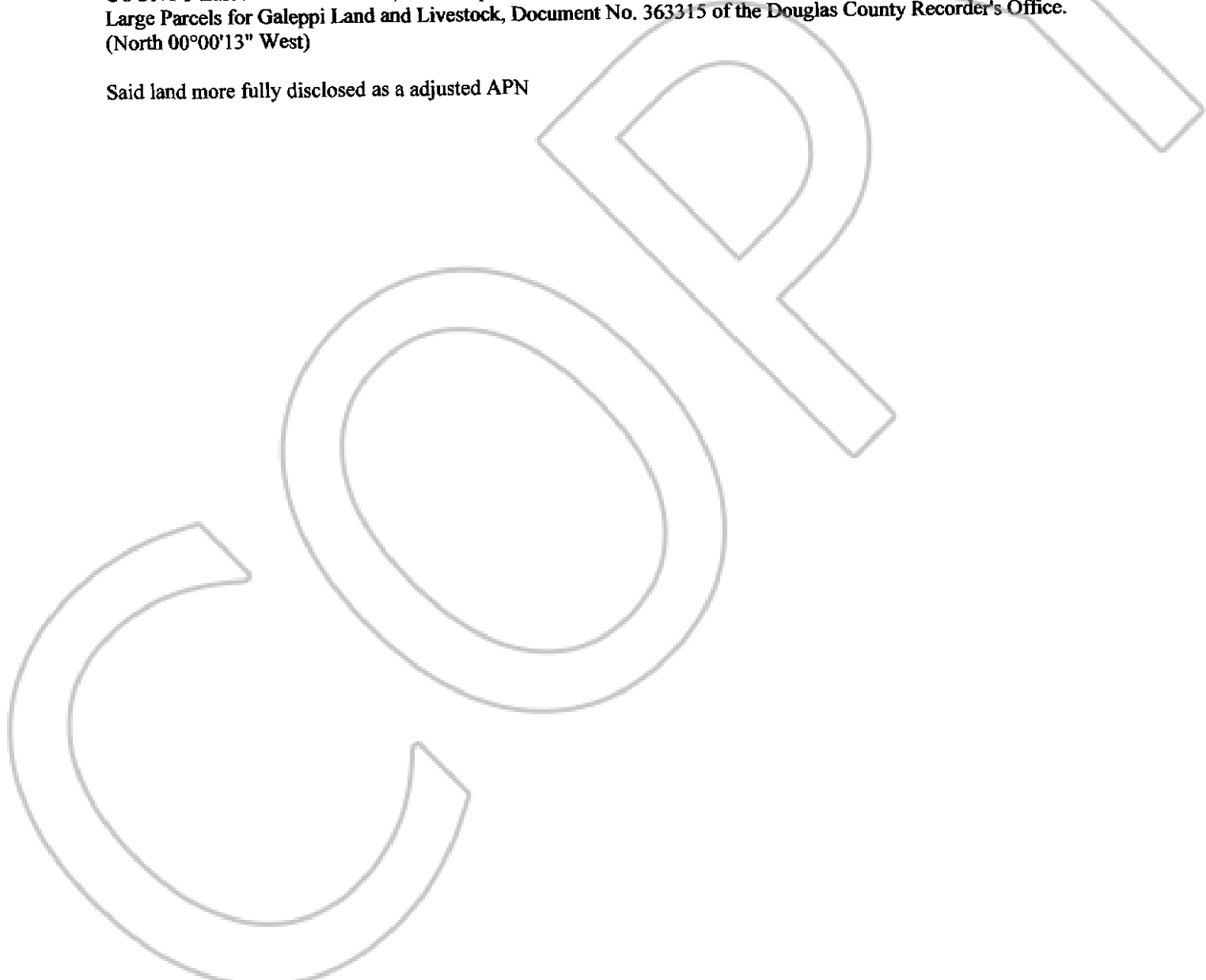
Continued on next page

PARCEL 3:

An easement for ingress and egress as disclosed in Document recorded August 5, 1940, Book V of Deeds, Page 503, Document Number 6995, Douglas County Nevada Records.

"IN COMPLIANCE WITH NEVADA REVISED STATUTE 111.312, THE HEREIN ABOVE LEGAL DESCRIPTION WAS TAKEN FROM INSTRUMENT RECORDED FEBRUARY 23, 2005, BOOK 0205, PAGE 8305, AS FILE NO. 0637382, RECORDED IN THE OFFICIAL RECORDS OF DOUGLAS COUNTY East line of Section 12, Township 13 North, Range 19 East, MDM as shown on the Map of Division Into Large Parcels for Galeppi Land and Livestock, Document No. 363315 of the Douglas County Recorder's Office. (North 00°00'13" West)

Said land more fully disclosed as a adjusted APN



**Exhibit B to Grant of
Agricultural Conservation Easement**

PROHIBITED USES AND PRACTICES

The following uses and practices, though not necessarily an exhaustive recital of inconsistent uses and practices, are inconsistent with the conservation purpose of this Easement and shall be prohibited upon or within the Property.

1. The impairment of the protected conservation purpose of this Easement, except as otherwise expressly provided herein.
2. The establishment of any nonagricultural, commercial or industrial uses.
3. The construction, placing or erection of any sign or billboards, except for (a) signs that advertise any agricultural business conducted on the Property, (b) signs that are reasonably necessary for the identification of the Property; (c) one or two signs used to advertise the sale or lease of the Property; (d) signs restricting hunting or trespassing; (e) directional signs; and (f) temporary signs on the Property for a period of no longer than six (6) months advertising political candidates, election issues or community events.
4. The erection, construction, reconstruction, placement, replacement or maintenance of any improvement, building, telecommunication transmission equipment or other structure (the "Improvements") on the Property, except that (a) Grantor shall be entitled to erect, construct, reconstruct, place, replace and maintain any Improvements which are existing at the time of granting of this Easement *provided* that such Improvements are consistent with Grantor's farming operations and with the conservation purpose of this Easement; and (b) Grantor shall be entitled to construct new fences on the Property for purposes of reasonable and customary management of livestock, crops and wildlife.
5. Except as otherwise provided in Section 6. of this Grant, the division, subdivision or defacto subdivision of the Property, whether by physical or legal process. However, a lease of all or a portion of the Property for agricultural use consistent with the conservation purpose of this Grant shall not be prohibited by this paragraph, nor shall a voluntary conveyance to a government or nonprofit entity exclusively for public access purposes consistent with the conservation purpose of this Easement be prohibited by this paragraph.
6. The use of motorized vehicles, except by Grantor or others under Grantor's control for agricultural, ranching or attendant residential use of the Property. Any use of motorized vehicles off roadways is prohibited except when necessary for agricultural purposes.
7. The construction or relocation of any roadway, including, without limitation, any bulldozing or grading required in connection therewith. However, Grantor may construct any roadway (a) that is necessary or appropriate for the agricultural use of the property and (b) that furthers the conservation purpose of this Easement.

8. The dumping or accumulation of trash, hazardous or toxic wastes and materials, ashes, garbage, inoperative vehicles, waste or other unsightly or offensive material on the Property other than farm-related trash and refuse produced or stored in the Building Envelope to the extent consistent with standard farming operations in Douglas County, Nevada and in strict compliance with all applicable federal, state and local laws, statutes, rules, regulations and ordinances. However, this shall not prevent the storage of agricultural products and byproducts on the Property, so long as it is done in accordance with all applicable government laws and regulations.

9. The mining, extraction, severance or removal of any soil, sand, rock, oil, natural gas, fuel or any other mineral substance or natural resource found or located on, above or under the Property or otherwise permit any similar activity on the Property which will or may destroy the natural and scenic characteristics of the Property or the agricultural productivity of the Property not including the moving or removal of soil, sand and/or rock from the Property or within the Property in connection with Grantor's standard farming operations.

10. The cutting, uprooting or removal of any trees or other natural growth located on the Property, except as may be required for fire prevention, fire lanes, farm roads, other access, existing power lines and such other uses as may be conducted by Grantor in connection with agricultural operation, elimination of dead or diseased growth or insects or heating of on site facilities or other domestic uses; *provided*, that in no event shall Grantor be permitted to remove any trees or natural growth which is located in any riparian corridor (not including any man-made irrigation ditch or canal) on the Property, except and only to the extent that such removal is necessary to protect the natural flow of water existing in such riparian corridor.

11. The use of any dynamite or other explosives on the Property, except if required in connection with any permitted uses of the Property.

12. The damming, diverting or other interference of any natural water flow on, under or through the Property and the filling of any portion of the Property with any substance, including any exchange, replacement or removal of any soils or other substances from the Property except in connection with Grantor's standard farming operations and except for the diversion of natural water flow through the Property in connection with the irrigation of Grantor's fields and/or established diversions of natural water flow for agricultural purposes on neighboring properties.

13. The use of the Property as a ball field or other recreational field, golf course, golf links or driving range, shooting range, commercial equestrian facility or commercial stock yard.



**Exhibit C to Grant of
Conservation Easement**

PERMITTED USES AND PRACTICES

The following uses and practices, though not necessarily an exhaustive recital of consistent uses and practices, are permitted under this Easement, and they are not to be precluded, prevented or limited by this Easement; *provided*, that they are undertaken in accordance with the terms and provisions of this Easement and in compliance with all applicable federal, state and local laws, statutes, rules, regulations and ordinances and that all applicable governmental approvals and permits are properly obtained.

1. To reside on the Property consistent with the conservation purpose of this Easement.
2. To maintain and repair existing improvements located on the Property.
3. To develop and maintain such water resources on the Property, including without limitation wastewater storage and pond storage facilities, as are necessary or convenient for agricultural and residential uses in a manner consistent with the conservation purpose of this Easement and other permitted uses of the Property and in strict compliance with all applicable federal, state and local laws, statutes, rules, regulations and ordinances.
4. To undertake conservation practices that promote soil stabilization and reduce erosion in accordance with sound, generally accepted practices and in accordance with the most recent Conservation Plan approved for the Property.
5. To engage in any and all agricultural uses of the Property in accordance with sound, generally accepted agricultural practices and soil conservation practices. For purposes of this Grant, "agricultural uses" shall be defined as follows: breeding, raising, pasturing and grazing livestock of every nature and description for the production of food and fiber; breeding and raising bees, fish, poultry and other fowl; planting, raising, harvesting and producing agricultural, aquacultural, processing, storage and sale, including direct retail sale to the public of crops and products harvested and produced principally on the Property; *provided*, that the processing, storage and sale of any such crops or products that are not food, fiber or plant material shall require the prior approval of Grantee; *provided*, further, that such agricultural uses shall not result in significant soil degradation or significant pollution or degradation of any surface or subsurface waters.
6. To use the Property, or any portion thereof, for game-bird hunting, including any lease of the Property to a hunting club for game-bird hunting in strict compliance with all applicable federal, state and local laws, statutes, rules, regulations and ordinances.



Douglas County Transfer of Development Rights Program

Chapter 20.500

Transfer Development Rights

Sections:

20.500.010 Eligibility.

20.500.020 Procedure.

20.500.010 Eligibility.

A. Real property situated in the A-19 and FR-19 districts may transfer development rights to real property situated in designated receiving areas, as shown in the 1996 master plan, as amended.

B. The owner of real property in a sending area may not sell, transfer or convey more development rights than the parcel is permitted under the 1996 master plan, as amended plus bonuses as provided in this chapter.

C. In the A-19 zoning district, no development rights can be transferred, nor can a certificate of eligibility be issued, unless the owner of the real property permanently restricts all appurtenant surface and groundwater irrigation rights against transfer from the sending parcel.

D. The owner of real property in a receiving area may not transfer more development rights to a parcel than the density provided by the base zoning district, an approved planned development or an approved specific plan for the parcel.

E. Transfer of development rights from parcels zoned A-19 are eligible for bonuses using the following calculations:

1. The bonus for the transfer of development rights for each 19-acres shall be 9 units. These bonus units are conferred, and can only be used for transfer. They cannot be used on the sending parcel for any other purpose.

2. A bonus of 7 units per 19-acres shall be provided for each sending parcel for which at least 50% of the 19 acres is located within the designated FEMA 100-year floodplain.

3. A bonus of 7 units per 19-acres shall be provided when transfer of all of the appurtenant surface and groundwater irrigation rights from the parcel is restricted. The restriction against the transfer may provide for substitution of water rights of equivalent volume and equal or senior priority, on approval by the Board at the time of substitution.

4. A bonus of 20 units for every 100 acres shall be provided for each sending parcel when the parcel of contiguous parcels are a minimum of 100 acres in area.

5. The board in its discretion may grant additional bonuses not to exceed one unit per 19 acres for dedication of improved and permanent public access easements or easements to rivers, streams, public lands or significant historical resources. These bonus units are conferred, and can only be used, upon transfer of all development rights from the sending parcel. It cannot be used on the sending parcel for any other purpose.

6. Minimum parcel size for participation in the TDR program is 40 contiguous acres. Calculations for bonuses on parcels greater than 40 acres shall be on a prorated basis with all bonus calculations rounded to the nearest whole number. Individual parcels may be considered together for the purpose of calculating bonuses.

7. Any existing or remaining residential unit or commercial development on the sending parcel shall require a minimum of 40 acres, which shall not be eligible for transfer or bonuses. The parent parcel or group of parcels will be reduced by 40 acres before calculating units available for transfer and bonuses.

F. Transfer of development rights from parcels in the FR-19 district are eligible for bonuses using the following calculations. These bonus units are conferred, and can only be used, upon transfer of all



development rights from the sending parcel. They cannot be used on the sending parcel for any other purpose.

1. The bonus for the transfer of development rights from each 19-acres, of which at least 50% of the 19 acres is located within the designated FEMA 100-year floodplain, shall be one unit.

2. The board in its discretion may grant additional bonuses not to exceed one per unit per 19 acres for dedication of improved and permanent public access easements or easements to rivers, streams, public lands or significant historical resources. These bonus units are conferred, and can only be used, upon transfer of all development rights from the sending parcel. It cannot be used on the sending parcel for any other purpose.

3. A bonus of one unit for every 100 acres shall be provided for each sending parcel when the parcel or contiguous parcels are a minimum of 100 acres in area.

4. Minimum parcel size for participation in the TDR program is 40 contiguous acres. Calculations for bonuses on parcels greater than 40 acres shall be on a prorated basis with all bonus calculations rounded to the nearest whole number. Individual parcels may be considered together for the purpose of calculating bonuses.

5. Lands owned or held in trust by the United States or its agencies are not eligible to participate in this program.

G. Bonuses are conferred only upon transfer of the development rights from a parcel of real property. Partial transfers may occur only from parcels in excess of 40 acres in area. For a parcel in excess of 40 acres, if the owner transfers less than all of the development rights to which the parcel is entitled, the owner shall designate the portion of the parcel from which the development right or rights are being transferred, and a description of the portion will be included in the open space easement or deed restriction required by section 20.500.020. A parcel of real property from which a partial transfer of development rights has been made is not eligible for land division under chapter 20.704 which will result in parcels less than 40 acres in size. (Ord. 968, 2001; Ord. 763, 1996)

20.500.020 Procedure.

A. To transfer or acquire development rights under this chapter, a person shall apply to the community development department for a certificate that the parcel in question is eligible for such transfer or acquisition. The application and certificate shall be on a form prepared by the community development department, and shall include a legal description of the parcel or parcels and a current title report. Documentation to establish eligibility for all bonuses must be provided with the application. If the transferor applies for density bonus related to the restriction against transfer of water rights, then evidence of the appurtenant surface water rights under the Alpine Decree or state permit(s) for other irrigation water rights shall be provided with the application. If the transferor applies for bonuses related to flood plain preservation, a detailed map showing the property and the floodplain preservation, a detailed map showing the property and the floodplain boundary along with the calculations showing percentage and acreage of the sending parcel(s) in the floodplain must be provided. If the transferor applies for bonuses related to the 100-acre minimum parcel area, a detailed map showing the property or properties and their respective parcel sizes must be provided.

B. In order for the certificate to be issued, the owner must record a deed restriction or grant a perpetual open space easement to the county, a local governmental agency approved by the board, or a non-profit conservation entity, the form of which shall be subject to the approval of the county and presented with the application for the certificate. The open space easement or deed restriction shall contain words sufficient to restrict transfer of appurtenant surface or other irrigation water rights as required herein.

C. If the director finds that the application is complete and the open space easement or deed restriction is in proper form and has been recorded, then a certificate will be issued to the owner.

D. Upon execution and delivery of the instruments of transfer, the transferee shall record the same, together with the certificate, in the office of the county recorder. The transferee will also file duplicates of the recorded instruments and certificate with the community development department. No transfer shall be effective until and unless the conveyances, the certificate and the open space easement or deed restriction are



recorded in the office of the county recorder and copies of the recorded instruments filed with the community development department, as provided herein.

E. The community development department and the county recorder will keep records of issued certificates, the transfers and easements or deed restrictions, which shall be available for public inspection during normal working hours. Use of the index and files kept by the community development department shall be limited to determination of eligibility for transfer or acquisition; the official records of any such transfers shall be in the office of the county recorder.

F. Douglas County does not insure title or ownership of development rights, nor does it prepare the conveyances or instruments to effect the transfer. (Ord. 968, 2001; Ord. 801, 1997; Ord. 763, 1996)

COPY



**Exhibit E to Grant of
Conservation Easement**

MAP OF THE PROPERTY

