

## **CONSERVATION DECLARATION**

**THIS DECLARATION OF A CONSERVATION COVENANT** (“Conservation Declaration”) is made on this \_\_\_\_\_ day of August, 2019 by the **SUMMIT COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Colorado, hereinafter (“County”) and the **TOWN OF SILVERTHORNE**, a municipal corporation of the State of Colorado hereinafter (“Town”), collectively the “Declarants”.

### **RECITALS**

- A. Declarants are the owners of certain real property (“Property”) described as A part of Block A-1, South Forty Subdivision and Lot 8, Block a, South Forty Subdivision, 39.662407°, - 106.082616°.
- B. The Central Federal Lands Highway Division of the Federal Highway Administration, in cooperation with Summit County and the United States Forest Service-White River National Forest, are proposing to construct a new Recreation Pathway on National Forest system lands between the Copper Mountain Far East parking lot south to the vicinity of Graveline Gulch in Summit County, Colorado
- C. Construction of the Recreation Pathway will result in impacts to approximately 0.80 acres of wetlands, including fen-wetland complexes.
- D. Impacted wetlands along the Recreation Pathway alignment are subject to United States Army Corps of Engineers mitigation requirements.
- E. This Conservation Declaration identifies an offsite mitigation site at the Property jointly owned by Summit County and the Town of Silverthorne.
- F. The purpose of this Conservation Declaration is to ensure that certain wetland and designated mitigation located within that portion of the Property described and depicted in Exhibit A (“Conservation Area”) will be maintained in a protected state, and that agents and representatives of the County, the Town, the Federal Highway Administration, and the Corps of Engineers have the right of entry and access to the areas shown on Exhibit A in order to administer this covenant.

**NOW THEREFORE**, the Declarants on behalf of themselves and all their heirs, assigns and successor in interest into whose ownership said property may pass hereby declare that the Conservation Area shall be held and subject to the following restrictions, covenants and conditions as set out herein, to run with the subject real property and be binding on all parties that have or shall have any right, title, or interest in the Conservation Area.

- 1. Consistent with the purpose of this Conservation Declaration, no person, company, agency, or applicant shall alter a wetland regulated under Summit County Code Chapter 7.105 except as exempted in Section 2 below or as authorized by the Summit County Engineering

Department through approved permits. It is the purpose of this Conservation Declaration to require that certain wetland and designated mitigation areas as shown on Exhibit A will be maintained in a natural state in order to preserve and protect the ecosystem for the purpose of supporting wildlife populations and related ecosystem services.

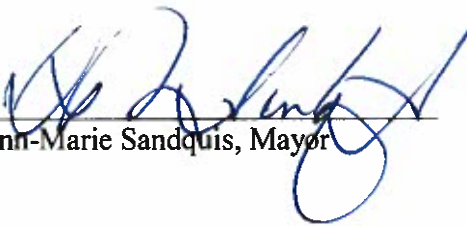
2. Exempted Activities: Any person engaging in an exempted activity shall use reasonable methods to avoid potential impacts to wetlands and designated mitigation areas. Exemptions from permits are not exemptions for wetland stewardship responsibilities. The following developments, activities, and associated uses shall be exempt from the provisions of this Conservation Declaration; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:
  - a. The normal maintenance, excluding intentional burning, of vegetation in a manner that is not injurious to the natural reproduction of such vegetation.
  - b. Passive recreational activities such as nature enjoyment, bird watching, educational walks, etc. on the protected property, provided that such activities are conducted in a manner and intensity that does not adversely impact plant and wildlife habitat on the protected property.
  - c. The removal or eradication of noxious weeds so designated in the Summit County Weeds Management Plan pursuant to Resolution No. 2001-18, or other exotic nuisance plants provided that ground disturbing heavy machinery (scraping, ripping, etc.) is not used. Cutting, mowing, and ground disturbance with hand tools is allowed.
  - d. Site investigative work necessary for land use application submittals on adjacent parcels such as surveys, soil logs, and percolation tests.
  - e. Emergency clearing to abate immediate danger to persons or property. For emergency clearing of hazard trees, remove, and if possible leave remaining on ground, only that portion of the hazard tree as necessary to remediate the hazard.
  - f. Clearing necessary for the emergency repair of utility or public facilities. Notification of emergency work that causes substantial degradation to functions and values must be reported in a timely manner.
  - g. Clearing for operation, maintenance, or repair of existing utilities or public facilities that does not further increase the impact to, or encroach further within, the wetland, riparian, or designated mitigation area.
  - h. Clearing, as minimally necessary, for soil, water, vegetation and resource conservation projects having received an environmental permit from a public agency in wetlands and designated mitigation areas.
3. The following uses of, or activities on, the Property are inconsistent with the purpose of this Conservation Declaration and are prohibited:
  - a. The disruption of wildlife breeding and nesting activities on the protected property.
  - b. The keeping of domestic animals on the property.
  - c. Except as authorized in Section 2 above, the operation or use of motorized vehicles or other activities that could disrupt the wildlife, destroy essential habitat, or otherwise negatively affect the ecosystem services in the protected property.
  - d. The draining, flooding, or disturbing of water level or water table.
  - e. The intentional burning of vegetation.

- f. Except as authorized in Section 2 above, the removal, excavation, or grading, or dredging of soil, sand, gravel, minerals, organic matter, or material.
4. Exhibit A is intended to illustrate the approximate location of areas within the Property that contain wetlands that have been designated for mitigation purposes as described above. It does not represent a wetland delineation or survey of the property represented. There may be wetlands or mitigation areas on the Property that are not identified on Exhibit A that could be subject to additional regulation by the County, Town, or State and Federal Agencies.
5. Monitoring and Maintenance of Mitigation: Mitigation sites subject to this Conservation Declaration are required to be monitored and maintained in accordance with the mitigation plan or conditions of approval of the associated Summit County and Corps of Engineers permits, if applicable.
6. Parties acknowledge the Conservation Area is designated as open space property and the public has access in accordance with Summit County Open Space rules and regulations. However, in addition to the aforementioned, representatives and agents of the County, Town, Federal Highway Administration, and Corps of Engineer are hereby authorized to make reasonable entry into designated mitigation areas upon such land for purposes related to administering this covenant, provided that:
  - a. Declarants or their heirs, successors or assigns are given at least 24-hours advance notice of any such entry.
7. The provisions of this covenant are enforceable in law or equity by the Declarants and their successors.
8. This instrument sets for the entire agreement of the parties with respect to the Conservation Declaration and supersedes all prior discussions, negotiations, understanding or agreements relating to the Conservation Declaration. If any provisions is found to be invalid, the remainder of the provisions of this Conservation Declaration, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.
9. Declarants shall record this instrument and any amendment hereto in timely fashion.

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be executed the day and year indicated below.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

TOWN OF SILVERTHORNE

  
Ann-Marie Sandquis, Mayor

ATTEST:

  
Michele Miller, Town Clerk

BOARD OF COUNTY COMMISSIONERS OF  
SUMMIT COUNTY, COLORADO

\_\_\_\_\_  
Thomas Davidson, Chair

ATTEST:

\_\_\_\_\_  
Kathleen Neel, Clerk and Recorder

# Exhibit A. Wetland and Designated Mitigation Areas South Forty Subdivision Conservation Area

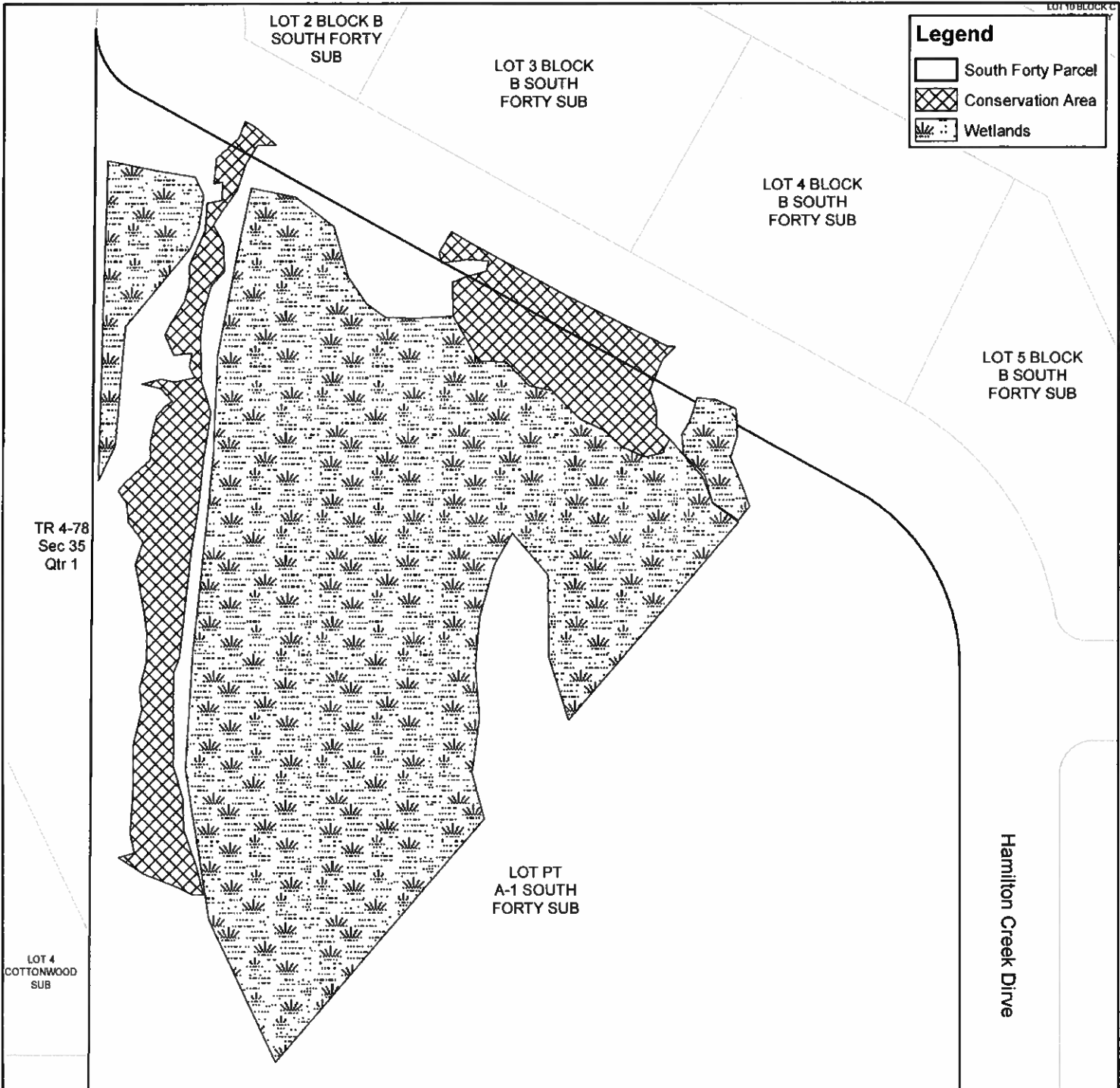


Exhibit to a Conservation Declaration by the Summit  
County Board of County Commissioners and the  
Town of Silverthorne

Block A-1, South Forty Subdivision and Lot 8, Block a,  
South Forty Subdivision, 39.662407°, -106.082616°.

**SITE NOT SURVEYED, SKETCH IS CONCEPTUAL  
TO ACCOMPANY CONSERVATION DECLARATION**

0      50      100      200 Feet

March 2019

A-1 SOUTH  
FORTY SUB

Hamilton Creek Drive

