Palmer Land Trust

March 30, 2016

Karen Palus
Director of Parks, Recreation and Cultural Services
City of Colorado Springs
1401 Recreation Way
Colorado Springs, CO 80905

Jack Damioli
President and CEO
The Broadmoor
1 Lake Avenue
Colorado Springs, CO 80906

Dear Ms. Palus and Mr. Damioli:

The City of Colorado Springs and The Broadmoor have expressed their interest in placing a conservation easement on the Strawberry Hill parcel as a potential component of the proposed land exchange between the City and The Broadmoor. It is our understanding that the City of Colorado Springs, as the current landowner of the parcel, wishes to include The Broadmoor in conservation easement discussions given the potential future transfer of land ownership. At this time, it is appropriate that we enter into a letter of intent to initiate the due diligence process, outline various responsibilities, and identify certain costs and expenses. This letter cannot identify the details of every step involved in completing a conservation easement, but will identify the overall process.

Palmer Land Trust's mission is to ensure the protection of open lands in southern Colorado. We work with public and private landowners to permanently conserve key properties that hold scenic, ecological, agricultural, and/or recreational values that contribute to our region's identity and high quality of life. A key component of Palmer's mission is to advance public recreation opportunities and accessible open space together with our city and county partners.

While this letter should not be interpreted as an endorsement of the proposed land exchange, its signature and return by the interested parties initiates the due diligence process by Palmer Land Trust necessary to advance conversations regarding the proposed easement. During this time, staff will work with both parties to complete a thorough investigation into the property. Once due diligence is completed, Palmer Land Trust's Board of Trustees will evaluate the final easement terms, and make an ultimate determination on whether to accept holding the conservation easement.

During the due diligence phase of a potential conservation easement, Palmer Land Trust will determine whether to continue pursuing the project on no less than four occasions:

1) Staff conducts a preliminary evaluation of the conservation values present on your property and tours the property. (*Completed March 10, 2016*)
2) The Land Committee reviews a written and graphical presentation of the conservation values for approval. (*Approved March 17, 2016*)

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3) Staff conducts a review of due diligence documentation for the property. If irregularities or inconsistencies are discovered, or if issues surface that could impact the conservation purpose of the project, the project may be halted or terminated.
4) The conservation easement will be presented to the Board of Trustees which makes the final determination whether to accept the conservation easement terms.

Palmer acknowledges that during the course of our negotiations, the City or The Broadmoor may determine that a conservation easement does not best serve the needs of the property and that this document does not bind any of the parties to completing an easement. While we agree to work in good faith on this project and keep you updated on our progress, please understand that Palmer also reserves the right to terminate the project at any time during this process.

The following conservation values were approved by Palmer's Land Committee on March 17, 2016: 1) the preservation of open space for the scenic enjoyment of the general public and 2) the preservation of land areas for outdoor recreation by the general public.

Because of the significant consequences flowing from a conservation easement, we strongly encourage the City and The Broadmoor to seek professional advice for real estate, legal, and accounting issues. Palmer Land Trust will not advise you on these important issues but will provide information for you to discuss with your professional advisors.

Specific steps of which to be aware during the conservation easement process are as follows:

1) **Title Commitment:** You should plan on ordering a copy of a current title commitment for your property that contains a legal description, ownership information, mineral rights and water rights information, any outstanding mortgages and liens on the property, and any existing easements or rights-of-way for the property. This is an important part of the due diligence that is required for conservation easements and is typically included in the cost of the title insurance policy.

2) **Title Insurance Policy:** Though the title commitment informs the landowner and land trust of all exceptions to the title, it does not insure the title. A separate title insurance policy protects Palmer against loss or damages resulting from errors or defects in the title. The policy should cover the entire cost of the conservation easement value. The cost for a policy of this nature varies depending upon the easement value, but is often less than $2,000.

3) **Mineral Rights**: The title commitment should indicate whether the mineral rights associated with the property have been severed. The Internal Revenue Service, as well as the Standards and Practices of the Land Trust Alliance, require that a landowner obtain an opinion from a qualified mining engineer or geologist that the potential for the development of mineral rights is "so remote as to be negligible." It will be your responsibility to provide the required mineral report. You should anticipate the fees between $1,000 and $2,000. Palmer Land Trust can help you find a qualified geologist if you need this report completed. If you own 100% of the mineral rights on the property, this report will not be required.

4) **Legal Fees:** You should anticipate your own legal fees. We strongly recommend that you engage legal counsel familiar with conservation easements.

5) **Appraisal**: An appraisal to determine property value will be required to help determine the value of the conservation easement for title insurance policy purposes. *If state or federal tax incentives are pursued, you will be required to obtain a qualified conservation easement appraisal.*

6) **Baseline Inventory**: The Land Trust and the IRS require that the current condition of the property be documented with photos, maps, and field observations. The baseline report documents the characteristics and condition of the property and serves as a standard against which any changes to the property are measured in the future. Although you will engage the baseline preparer, we will require you to provide the Land Trust with a completed baseline in advance of the easement closing so we can approve the final draft. Your own legal counsel may prefer working with a specific baseline contractor. We can also identify names of baseline contractors with whom we have had good experience in the past. The fees for a baseline report will vary depending on the size of your property but generally range from $3,000 to $8,000.

7) **Water Rights Due Diligence**: Water rights associated with a property should be encumbered in the easement document if they play a significant role in the conservation purpose. Therefore, water rights due diligence work and/or a water rights assessment may be required.

8) **Closing Costs**: Once the conservation easement is signed, it will need to be recorded in the county in which the property is located. The recording fees are based on the number of pages but generally range between $75 and $100. If the closing is handled by a title company, there will also be a closing fee. The recording and closing fees should not exceed $500.

9) **Liability Insurance**: Palmer Land Trust requests that you identify the Land Trust as an additional insured on the liability insurance that applies to your property. This request usually does not impose any additional expense to you but it does require communicating with your insurance company and obtaining a certificate of insurance to share with Palmer.

10) **Palmer Land Trust Administrative Fees**: In developing and preparing a conservation easement, Palmer Land Trust will incur expenses for staff time and legal fees to our outside counsel. Although we have a model conservation easement that will be the starting point for developing an easement on the property, the document will be customized to reflect the specific rights retained for the property. For this public open space project, Palmer Land Trust requires an administrative fee of $10,000 plus reimbursement for any outside legal fees incurred by the Land Trust. Given the complex nature of this project, Palmer's Board of Trustees reserves the right to increase the administrative fee to cover unanticipated costs accrued by the Land Trust.

    Palmer Land Trust requests that a non-refundable deposit of $1,500 accompany this signed letter of intent. This amount will be credited towards the administrative fee.

11) **Palmer Land Trust Stewardship Contribution**: Palmer Land Trust requests a contribution for the stewardship of an easement from the easement donor. Any holder of a conservation easement requires funding to support the annual monitoring and potential enforcement costs associated with defending the terms of a conservation easement. Palmer Land Trust pools the stewardship contributions from all of its donors and invests these funds in order to provide an adequate fund for stewardship purposes into the future. For this project, Palmer Land Trust requires a stewardship fee of $25,000.

In the event state and federal tax incentives are pursued as a result of donating this conservation easement, additional expenses apply including obtaining a qualified conservation easement appraisal and paying fees for the Colorado state tax credit application. We can provide additional information if the conservation easement donor is interested in learning more.

It is our hope that this letter of intent has identified the principal expenses and steps involved in developing and finalizing a conservation easement on this property. Please sign below and return a copy of this letter and the non-refundable deposit to confirm your intention of proceeding with the easement process. Should you have any questions concerning any aspect of this process, any information within this letter, or any other issue, please do not hesitate to contact me or Palmer Land Trust's Conservation Director, Amber Shanklin. We look forward to working with you on this project and thank you again for your interest in preserving the conservation values on this property.

Sincerely,

Rebecca Jewett
Executive Director

Agreed and accepted this 4th day of April 2016.

Signature (City of Colorado Springs)

Agreed and accepted this 4th day of April 2016.

Signature (The Broadmoor)

Please mail this signed letter with deposit to:
Palmer Land Trust
102 S. Tejon St, Suite 360
Colorado Springs, CO 80903