



## Board Summary Report

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**File #:** 23-638

**Agenda Date:** 10/30/2023

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**To:** Board of County Commissioners

**Through:** Director Shannon Carter, Director, Open Spaces

**Prepared By:**  
Shannon Carter, Director, Open Spaces

**Subject:**  
2:00 PM \*High Line Canal Deed Transfer Update

### **Purpose and Request:**

In July 2023, Arapahoe County entered a memorandum of understanding with Denver Water regarding the process to transfer ownership of the High Line Canal to Arapahoe County. This Study Session will update the BOCC on the status of the negotiations and provide the Board with the opportunity to discuss the deed transfer with representatives from Denver Water and the High Line Canal Conservancy.

### **Background and Discussion:**

#### High Line Canal Property

Originally a private venture, Denver Water acquired the Canal in 1924 and has owned most of the 71-mile corridor ever since. The corridor width varies but is generally 100-foot wide and includes an earthen Canal and ditch riders' road that has been converted into a dual-purpose recreational trail and maintenance road. The Canal corridor also contains existing vegetation, roadway crossings, utility easements, recreation infrastructure, access points and other infrastructure typically allowed by Denver Water through licenses and easements. Where the Canal crosses natural waterways the Canal itself is piped over or under those waterways to ensure that Platte River water (its source of water) does not comingle with natural waterways.

The High Line Canal has been identified as a regional asset and contributes to the scenic character of local neighborhoods and the broader metro area. The Canal provides riparian habitat, native plant communities, and open space and a multi-purpose recreational trail. The Canal provides both recreation for residents and a refuge for urban-adapted wildlife. Portions of the Canal are within a parcel deemed to have high biodiversity significance by the Colorado Natural Heritage Program. As mentioned above, several creeks intersect the Canal, such that the Canal provides habitat linkage between the natural creek corridors and among areas with high to very high biodiversity significance.

#### Arapahoe County Open Spaces

Arapahoe County has made significant investments in the High Line Canal using its Open Space funds. We have facilitated the creation and management of the High Line Canal Working Group, funded over \$10 million in Joint Project funding which resulted in three multi-million-dollar underpasses improving the safety of trail users, funded a number of studies evaluating the trees and vegetation along the canal, helped fund the citizen centric masterplan for the Canal (The Plan for the High Line), and (along with Denver Water) established the

High Line Canal Conservancy. The Open Spaces Advisory Board recommended setting aside an additional \$4 million of Open Space Funds for canal related projects over the next five years.

### Deed Transfer

It is Denver Water's intention to convey ownership of the Highline Canal to Arapahoe County from its entrance into the county (County Line Road) to where it enters the City and County of Denver in Green Valley Ranch (approximately 47 of the 71 miles.). Denver Water will retain ownership of the canal in Douglas County along with a portion of the canal in Denver (the Eisenhower reach). The Canal property has already been conveyed in three locations and will be excluded in the deed transfer.

1. **Quincy Farm:** In Cherry Hills Village, fewer than 1,00 linear feet of the Canal corridor was conveyed to an adjacent farm that is now owned by the City of Cherry Hills Village. An easement was granted to Denver Water to provide continuous access to the Canal and public access to the trail in this location.
2. **Green Valley Ranch:** Nearly four miles of the Canal property was sold to make way for the development of the Green Valley Ranch neighborhood in Northeast Denver. While the Canal is intact up until it reaches First Creek in Green Valley Ranch, most of the Canal north of First Creek has been filled in over time.
3. **Painted Prairie:** Nearly 1.5 miles of the Canal property was sold to make way for development of the Painted Prairie neighborhood in Aurora. A few sections of the Canal were preserved, while others were filled in within the development.

There is no purchase price for the deed transfer, however the County along with its partner agencies will take on the cost of maintaining the Canal. Additionally, Denver Water and the High Line Canal Conservancy have developed a plan to invest \$3.5 million over the next two years (the transition period) in maintenance projects that will improve the existing conditions along the Canal property. The improvements include but are not limited to:

- Removal of high hazard trees along the corridor (identified by the recently completed tree assessment study) and tree canopy care.
- Channel maintenance, including brush and vegetation removal as appropriate.
- Noxious Weed Treatment and removal.

### Conservation Easement

As a part of the deed transfer, a conservation easement will be placed on the property and will be held by the High Line Canal Conservancy. The easement identifies and establishes the conservation values to be preserved, its purpose and intent is:

- To ensure that the canal will be perpetually maintained as a linear greenspace with a multi-purpose public recreational trail.
- To maintain public access and recreational use of the canal,
- To permit water works, utility, and stormwater uses of the canal,
- And to preserve the environmental and urban natural ecosystem values of the canal

### Existing Recreation & Stormwater Agreements

Since the 1970s, Denver Water has leased what was historically the ditch riders' road to local recreation providers and agencies for use as a recreational trail. These recreation leases obligate the lessee to maintain the trail and a small portion of the property on either side of the trail. Beginning in 2019, Denver Water has entered

into agreements with local stormwater agencies to formalize the use of the Canal as green stormwater infrastructure. Denver Water currently has agreements with six stormwater agencies for use of the Canal for stormwater conveyance. Upon the transfer of ownership from Denver Water to Arapahoe County, the existing recreation, stormwater, and utility leases will be assigned to Arapahoe County. Currently those leases are on a varying schedule for renewal (some have expired, and some will be expiring soon). Denver Water is in the process of extending the leases until after the end of 2026. We will work with the lessees during the transition period to update to extend the recreation leases (the stormwater leases are long-term).

#### Agreements with Denver Water & Others

We are in the process of negotiating a long-term agreement with Denver Water covering both a two-year transition period and future uses and responsibilities of the Canal property. In addition, we anticipate entering into multiple agreements with the Conservancy and other jurisdictions to further define their roles with respect to the Canal, including the sharing of costs of maintenance and improvements to the canal.

The study session will give the Board of County Commissioners the opportunity to speak directly with representatives from Denver Water and the High Line Canal Conservancy regarding the transfer of ownership. We will discuss the reasons for the transfer, our future relationship with both agencies, the purpose of the conservation easement and future of this valuable community asset.

**Alternatives:** Arapahoe County has the option to not proceed with the Deed Transfer and Denver Water would retain ownership of the canal.

**Fiscal Impact:** Although the Deed Transfer will not have a direct cost, the County will be assuming additional costs for maintaining and improving the canal property. This cost will be covered by the maintenance portion of the Open Space Sales and Use Tax along with other sources of dedicated park, trail, and open space funding (Recreation District, Cash in Lieu, Grant Funding).

#### **Alignment with Strategic Plan:**

- Be fiscally sustainable
- Provide essential and mandated service
- Be community focused

**Concurrence:** The County Attorney's Office has been involved in the drafting and review of the relevant documents and agreement.

**Resolution:** Attached is a copy of the draft resolution.