

REAL ESTATE PURCHASE AGREEMENT
Woodmen Road Phase II Improvements Project

This REAL ESTATE PURCHASE AGREEMENT ("Agreement"), dated this 4 day of November, 2014, is by and between **Robert W. Duncan and Diana Y. Duncan** ("Seller") and the **City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation** ("City"). Seller and the City may be collectively referred to as the ("Parties") or singularly the ("Party").

Seller and the City agree as follows:

I. PURCHASE OF PROPERTY

1.1 Property. Seller is the owner of certain real property located in the County of El Paso, State of Colorado, described as:


**Exhibit A legally describing and Exhibit B depicting Parcel No. RW-248,
in fee simple,
attached hereto and made a part hereof.**

also known as 3038 East Woodmen Road ("Grantor's Property") and by El Paso County Tax Schedule No. 63100-03-028 (the above stated parcel referred to as the "Property"). The City desires to purchase the Property from Seller, upon the terms and conditions contained in this Agreement.

1.2 Deposit. No deposit is required.

1.3 Sale and Purchase Price. City hereby agrees to purchase, and Seller hereby agrees to sell to City the Property on the terms and conditions of this Agreement for the total purchase price of One Hundred Seventy Five Thousand and 00/100 Dollars (\$175,000.00) (the "Purchase Price"). The consideration set forth herein is in full settlement of all and any damages, including any damages to the remainder, occurring to the Seller or Seller's Property, and includes full compensation for the

Woodmen Phase II
RES #
Parcel(s) RW-248

Property Owner:  City Ints: _____
Date: 11/4/14 Date: _____

Seller's interest, either present or future, the interest of lienors, and any and all interests, legal or equitable, which are or may be outstanding, respecting the Property.

Restoration shall be made only as expressly provided herein and the consideration includes all losses associated with improvements and /or vegetation, natural or cultivated.

- 1.4 Force and Effect. If any provision of this Agreement shall be determined to be invalid, illegal or without force by a court of law or rendered so by legislative act, then the remaining provisions of this Agreement shall remain in full force and effect.

II. CLOSING

- 2.1 Time and Place. The closing of the purchase of the Property shall be at the offices of Land Title Guarantee Company ("Title Company"), located at 102 S. Tejon, Suite 760, in Colorado Springs, Colorado, 80903, at a date and time to be determined by the parties, (the "Closing") with the escrow instructions to be based on the terms and conditions set forth herein.

- 2.2 Procedure. At Closing, the following shall occur:

- a. City shall open escrow and deliver the fully executed Real Estate Purchase Agreement to the escrow officer within two (2) weeks of the execution hereof by City.
- b. Conveyance Deed. Seller shall convey Parcel RW-248, described in **Exhibit A** and depicted on **Exhibit B**, to the City by General Warranty Deed, free and clear of any liens or encumbrances whether recorded or unrecorded, but subject to easements, conditions and restrictions of record, provided that these are permitted exceptions by the City, insofar as they may lawfully affect the Property.

Woodmen Phase II
RES #
Parcel(s) RW-248

Property Owner:  City Ints: _____

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- c. Sellers Obligation. Seller shall ensure that the Property is free and clear of any and all liens and encumbrances, including the removal of financial indebtedness, other than those exceptions to title specifically permitted by the City. Seller shall obtain and provide escrow with any and all executed full releases, partial releases, subordinations, and/or release of liens, including Federal or State tax liens, that may have been given or covered on said Property. If Seller does not correct any such title condition, the City may, at its sole discretion, terminate this Agreement and pursue any remedies it may have at law or in equity, including condemnation.

- d. Purchase Price. City shall deliver the Purchase Price, minus any adjustments or prorations identified in Section 2.2(e) below, to the Title Company, as escrow agent, on or before Closing. Upon satisfaction of all of Seller's obligations hereunder, at Closing the Title Company shall remit the Purchase Price, subject to satisfaction of liens and encumbrances as required and plus or minus any adjustments or prorations identified herein, to the Seller or, at the Seller's direction, to the Seller's creditors.

- e. Real Property Taxes and Stormwater Fees. Seller shall be responsible for paying all real property taxes and any Stormwater fees that have accrued through the date of Closing.

- f. Closing requirements. The Parties shall deliver to the Title Company any and all affidavits, instruments, and documents as are customarily required in connection with a transfer of real property in the City of Colorado Springs, Colorado. The close of escrow is defined as the recordation of the deed which shall vest title to the City of Colorado Springs, and the recordation of any full releases, partial releases, subordinations, and/or release of liens, including Federal or State taxes, and the payment to Seller, or the

Woodmen Phase II
 RES #
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Seller's creditors at the direction of Seller, of the Purchase Price stated in Section 1.3, herein above.

- 2.3 Possession. Subject to the City's relocation policy, Seller shall deliver possession of the Property to City at Closing.
- 2.4 Closing Costs. City shall pay recording fees, applicable documentary fees, and for the Title Company's closing fee.
- 2.5 Title Policy. A title commitment will be secured by City for the City's review in advance of Closing. Closing is contingent upon City's satisfaction with the title commitment prior to Closing. Title insurance, if required, will be paid for by the City.

III. CONDITION OF PROPERTY

- 3.1 Physical Condition of Property. City acknowledges that Seller has made no representations or warranties concerning the condition of soils on the Property, drainage conditions on the Property, or any other matter pertaining to the physical or environmental condition of the Property.

IV. REMEDIES FOR BREACH

- 4.1 Remedies. This Agreement requires specific performance by the Seller, and the City may enforce specific performance of this Agreement in the event the Seller fails or refuses to perform. City, at its sole discretion, may terminate this Agreement by written notice to Seller and the Parties shall then be released from all obligations under this Agreement.

V. NOTICES AND OTHER DELIVERIES

- 5.1 Notices and Other Deliveries. Any notice or other documents or materials required or permitted to be delivered by this Agreement shall be deemed properly delivered upon receipt by the Party to whom the documents or materials are to be delivered.

Woodmen Phase II
RES #
Parcel(s) RW-248

Property Owner: MB City Ints: _____
Date: 11/4/14 Date: _____

Notices may be hand delivered, sent by first-class mail, return receipt requested, with postage prepaid, or transmitted by electronic facsimile. Notices shall be addressed and delivered as follows:

5.2

If to Seller:	If to City:
Robert W. Duncan and Diana Y. Duncan 6154 Cottontail Road NE Rio Rancho, NM 87144 Home Phone: 505-715-5996 Cell Phone: 505-288-1128 E-mail: cme4zzzz@yahoo.com	City of Colorado Springs Ronn Carlentine, Real Estate Services 30 South Nevada Avenue, Suite 502 Colorado Springs, CO 80903 Phone: (719) 385-5605 Fax: (719) 385-5610 E-mail: rcarlentine@springsgov.com

Either Party may, by notice properly delivered, change the person or address to which future notices or delivery to that Party shall be made.

VI. INTERPERTATION OF AGREEMENT

- 6.1 Governing Law. This Agreement is subject to and shall be interpreted under the laws of the State of Colorado, and the Charter, City Code, ordinances, rules and regulation of the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation. Court venue and jurisdiction shall be exclusively in the Colorado District Court for El Paso County, Colorado. The Parties agree that this Agreement shall be deemed to have been made in, and the place of performance is deemed to be in, the City of Colorado Springs, El Paso County, State of Colorado.
- 6.2 Headings. The article and section headings in the Agreement are for convenience only, and shall not be used in its interpretation or considered part of this Agreement.
- 6.3 Appropriation of Funds. In accord with Colorado Constitution, Article X, Section 20, and the City Charter, performance of the City's obligations under this Agreement is expressly subject to appropriation of funds by the City Council and/or Pikes Peak Rural Transportation Authority (PPRTA) and the availability of those appropriated funds for expenditure. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the City's obligations under this Agreement, or appropriated funds may not be expended due to Constitutional or City Charter

Woodmen Phase II
 RES #
 Parcel(s) RW-248

Property Owner:  City Ints: _____

Date: 11/14/14 Date: _____

spending limitations, then the City may terminate this Agreement without compensation to Seller.


6.4 Special Provisions.

- a. Authority to Acquire Property. This is an approved PPRTA capital improvement project and this Agreement is non-binding until such time as it is approved by the PPRTA Board and City Council as applicable.
- b. Closing is contingent upon the City's environmental review or audit and acceptance of the condition of the Property pursuant to City Code Section 7.7.1802.
- c. Seller agrees that no new easements, liens or encumbrances shall be placed on the Property from the time of Agreement execution through Closing, except any easement so designated by the City.
- d. On behalf of the City, the Real Estate Services Manager, or designee, shall execute the necessary escrow instructions and/or additional instructions, and acceptance of property interests which may be required to complete the closing of this real property transaction.

6.5 No Third Party Beneficiary. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to enforcement, shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any claims or right of action by any other or third person or entity. It is the express intention of the Parties that any person or entity, other than the Parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

6.6 Agreement. This Agreement shall inure to the benefit of and be binding upon the heirs, successors and assigns of the Parties.


Woodmen Phase II
RES #
Parcel(s) RW-248

Property Owner:  City Ints: _____
Date: 11/4/14 Date: _____

- 6.7 Assignment. Seller shall not assign or otherwise transfer this Agreement or any right or obligation under this Agreement.
- 6.8 Entire Agreement, Modification, Survival. This Agreement, together with all attachments, constitutes the entire contract between the Parties relating to the purchase and sale of the Property, and any prior agreements pertaining to the subject of this Agreement, whether oral or written, have been merged and integrated into this Agreement. No subsequent modification of any of the terms of this Agreement shall be valid, binding upon the Parties, or enforceable unless made in writing and signed by all the Parties. Any obligation in this Agreement that, by its terms, is intended to be performed after termination or Closing shall survive Closing.
- 6.9 Time. Time is of the essence in this Agreement.
- 6.10 Certification of Signatory(ies). Seller represents and warrants that Seller is the sole owner(s) of the Property, that the person(s) executing this Agreement is/are authorized to execute this Agreement on behalf of the Seller, and that no additional signatures are required to carry out the Seller's obligations contemplated herein.

INTENTIONALLY LEFT BLANK
SIGNATURE PAGES TO FOLLOW

Woodmen Phase II
RES #
Parcel(s) RW-248

Property Owner:  City Ints: _____
Date: 11/4/14 Date: _____

VII. SIGNATURE PAGES

Seller: Robert W. Duncan and Diana Y. Duncan

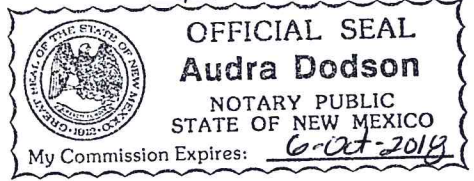
By: [Signature]
Robert W. Duncan

Date: 11/4/14

State of NM)
County of Sandoval) ss.

The foregoing instrument was acknowledged before me this 4 day of October, 2014, by Robert W. Duncan.

Witness my hand and official seal



My commission Expires: 6-Oct-2018

[Signature]
Notary Public

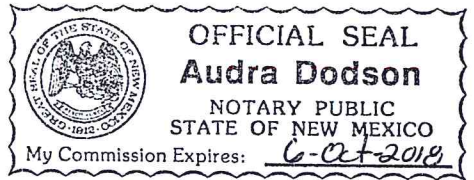
By: [Signature]
Diane Y. Duncan

Date: 4 NOV 2014

State of NM)
County of Sandoval) ss.

The foregoing instrument was acknowledged before me this 4 day of October, 2014, by Diana Y. Duncan.

Witness my hand and official seal



My commission Expires: 6-Oct-2018

[Signature]
Notary Public

Woodmen Phase II
RES #
Parcel(s) RW-248

Property Owner: [Signature] City Ints: _____
Date: 11/4/14 Date: _____

EXHIBIT "A"

Project No. STU M240-046 Unit II
Project Code: 12717
Date: January 28, 2013

DESCRIPTION

A tract or parcel No. RW-248 of the City of Colorado Springs, State of Colorado, Project No. STU M240-046 Unit II located in the NW 1/4 Section 10, Township 13 South, and Range 66 West of the 6th Principal Meridian, City of Colorado Springs, El Paso County, Colorado, more particularly described as follows:

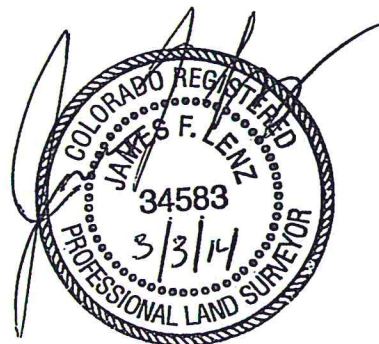
Lot 20, Block 8, of the Vacation and Replat of Columbine Estates recorded with reception No. 302902, in the records of El Paso County, Colorado.

The above tract of land contains 125,681 square feet or 2.885 acres, more or less.

Basis of Bearings for this description are based on the North line of the Northeast Quarter of section 10, Township 13 South, Range 66 West of the 6th Principal Meridian, El Paso County Colorado, said line bears N89°22'46"E a distance of 2619.18 feet from the North 1/4 corner of Section 10 (monumented with a 3 1/4" Alum. Cap PLS 10377) to the Northeast corner of section 10 (monumented with a 3 1/4" Alum. Cap PLS 10956)




The forgoing description has been prepared by or under my direct supervision.

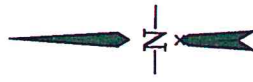
James F. Lenz PLS 34583
For and on behalf of
Ridgeline Land Surveying LLC.



LEGAL DESCRIPTION EXHIBIT "B"
 PARCEL NO. RW-248 OF THE CITY OF COLORADO SPRINGS, STATE OF COLORADO,
 PROJECT NO. STU M240-046 UNIT II, LOCATED IN THE NW 1/4 SECTION 10,
 TOWNSHIP 13 SOUTH, AND RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY
 OF COLORADO SPRINGS, EL PASO COUNTY, COLORADO
 SHEET 1 OF 1

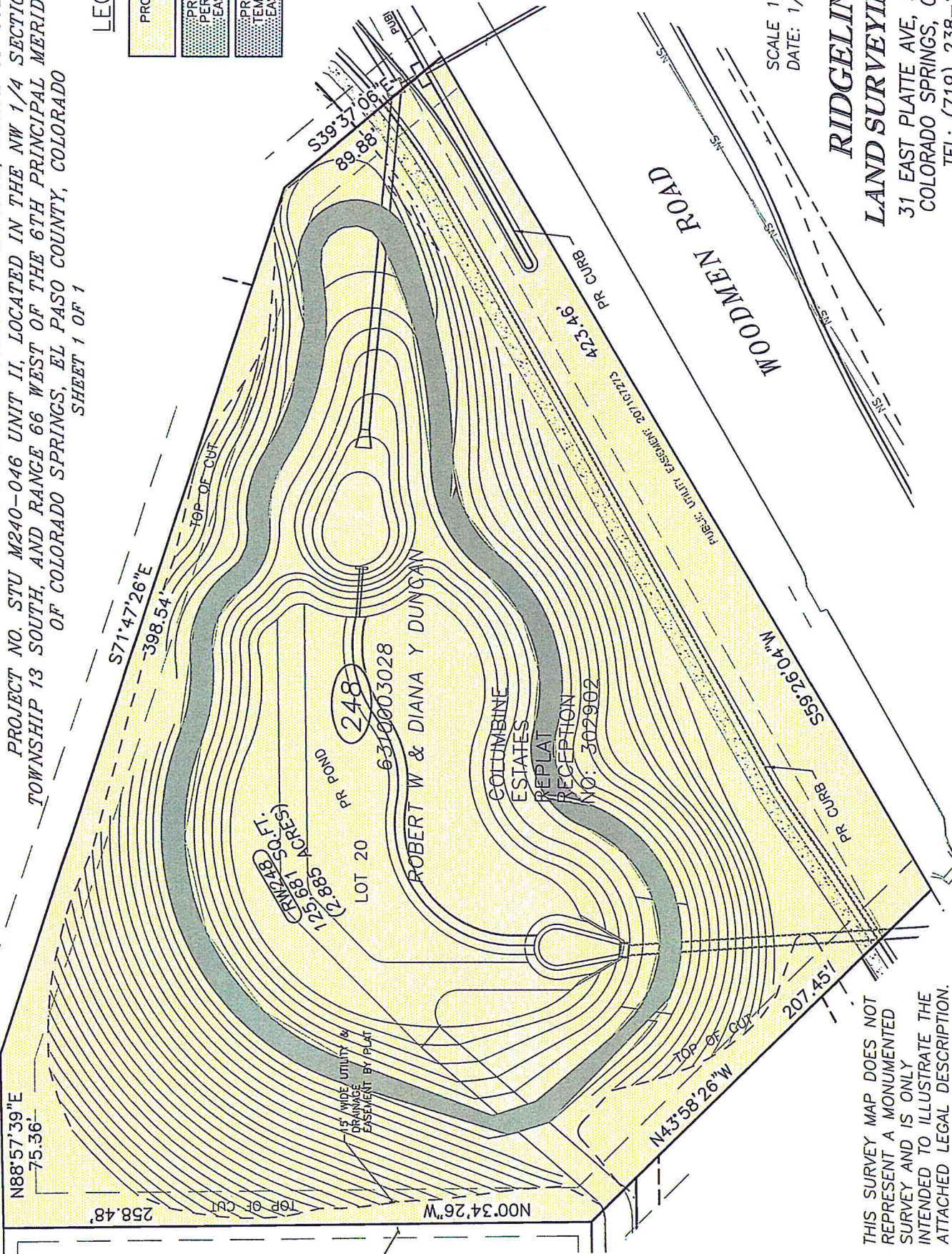
LEGEND

	PROPOSED ROW
	PROPOSED PERMANENT EASEMENT
	PROPOSED TEMPORARY EASEMENT



SCALE 1"=60'
 DATE: 1/22/14

RIDGELINE
LAND SURVEYING LLC
 31 EAST PLATE AVE, SUITE 206
 COLORADO SPRINGS, CO 80903
 TEL: (719) 238-2917



THIS SURVEY MAP DOES NOT REPRESENT A MONUMENTED SURVEY AND IS ONLY INTENDED TO ILLUSTRATE THE ATTACHED LEGAL DESCRIPTION.

COLORADO DEPARTMENT OF TRANSPORTATION FAIR MARKET VALUE		LPA Colorado Springs		2-7026
Project #: STU M240-046 Unit II	Project Code: 12717 (19450)	LPA - Yes/No: Y	P or N: P	Region #: 2
Parcel(s) #: RW 248		Property Owner: Robert W. and Diana Y. Duncan		

A. LAND/SITE VALUE OF PART(S) TAKEN

Parcel	Land Class	Area/Unit	Unit Value	Appraisal Support	Value
RW-248	Vacant Residential Land	2.885 Ac	Site	Sales/Market Approach	\$175,000

COPY

B. EASEMENT VALUE OF PART(S) TAKEN

PE, SE, etc.	Purpose	Area/Unit	Unit Value	% of Unit Value	Value
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N/A

TOTAL LAND/SITE AND EASEMENT VALUE OF PART(S) TAKEN **\$175,000**

C. IMPROVEMENTS CONTRIBUTORY VALUE OF PART(S) TAKEN (For numerous improvements, attach a separate sheet)

Parcel	Improvement Type	Size	Unit Value	Appraisal Support	Value
RW-248	none				N/A

TOTAL IMPROVEMENTS CONTRIBUTORY VALUE OF PART(S) TAKEN **\$0**

TOTAL VALUE OF PART(S) TAKEN **\$175,000**

D. COMPENSABLE DAMAGES AND/OR OFFSETTING BENEFITS

Compensable Damages – Curable (Net Restoration Cost to Cure)	\$-0-
Compensable Damages – Incurable	\$-0-
Offsetting Specific Benefits (Up to 100% of Incurable Damages)	\$-0-
Offsetting Specific Benefits (Up to 50% of Parts Taken)	\$-0-

NET COMPENSABLE DAMAGES AND/OR OFFSETTING BENEFITS **\$-0-**

E. RENTAL VALUE OF TEMPORARY EASEMENTS

TE	Purpose	Area/Unit	Unit Value	% of Unit Value	Term (Mo/Yr)	Value
N/A	N/A	N/A				N/A

TOTAL RENTAL VALUE OF TEMPORARY EASEMENTS **N/A**

COMPENSATION ESTIMATE **\$175,000**

F. APPRAISAL SUPPORT

Recommended report prepared by: Richard Muegge, MAI and Claudia Klein, SRA Date of value: 5/19/2014 Date of report: 6/11/2014

G. UNECONOMIC REMAINDERS (CDOT must offer to purchase per 49 CFR 24.102(k))

REMAINDER TOTAL **N/A**

COMPENSATION ESTIMATE RECOMMENDED FOR APPROVAL **\$175,000**

H. SALVAGE VALUE AND REMARKS (Include remarks for non-participating items, takings, damages, benefits, etc., as applicable)

An appraisal report with a compensation estimate of \$175,000 was completed by Richard Muegge, MAI & Claudia Klein, SRA., for the property owner, and is being utilized as the basis for this FMV. The Agency appraisal report, completed by Kyle Wigington, J.D., concludes \$173,000 in compensation.

There are no improvements, and the proposed acquisition is a total take.

City of Colorado Springs, Real Estate Services Mgr. <i>Ron DeFazio</i>	Date 10-8-14	Review Appraiser Nancy R/Hazlett <i>Nancy R. Hazlett</i> Cert. Genl. Appraiser #CG1321670	Date 10/1/14
The above amount is APPROVED as the basis for just compensation		<i>Stuart King</i> CAPITAL PROJECTS MANAGER	10/8/2014

CC: Orig. to ROW Services (Main file) * Acquisition (Encumbrance) * Region * AG's Office (Litigation) * Prop. Mgmt. (Imps. or "R" Parcel acquired) * Relocation (Relocation involved)



October 10, 2014

Robert W. Duncan and Diana Y. Duncan
6154 Cottontail Road NE
Rio Rancho, NM 87144-1543

COPY

Project No.: STU M240-046 UNIT II
Parcel Nos: RW-248
Project Code: 12717
Owners: Robert W. Duncan and Diana Y. Duncan

Property Address: 3038 E. Woodmen Road, Colorado Springs, CO 80920

RE: Pikes Peak Rural Transportation Authority
Woodmen Road Improvements Phase II
Initial Offer Letter – Notice of Intent to Acquire

Dear Mr. and Mrs. Duncan:

The City of Colorado Springs ("City") in coordination with Pike Peak Rural Transportation Authority ("PPRTA") is proceeding with the Woodmen Road Improvement Phase II Project ("Project") and intends to purchase your property located at 3038 East Woodmen Road and further identified as RW-248. The extent and the location of your property interests that we intend to purchase ("Property") are shown on the Exhibits attached hereto. The acquisition of the Property is required for the construction of improvements in connection with the Project.

For your convenience, we have included an explanation of the right of way acquisition process. This Project incorporates federal funding and the oversight of the property acquisition process is administered by the Colorado Department of Transportation ("CDOT"). The Project also includes local funding from PPRTA. Therefore, the City's property acquisition process will be in concert with the CDOT acquisition process.

As part of the acquisition process, you and the City obtained independent real estate appraisals of the Property from independent licensed appraisers, to determine the Fair Market Value of the Property. Based on these appraisals, the City offers to purchase the Property for the total purchase price of One Hundred Seventy-Five Thousand AND NO/100 DOLLARS (\$175,000.00).

This offer is being made in compliance with the City's *Procedure Manual for the Acquisition and Disposition of Real Property Interests* and in accordance with Colorado state law and regulations. The City has determined that \$175,000.00 is not less than the value of the Property indicated in the approved appraisal reports prepared by your and the City's independent licensed real estate appraisers and assumes the Property is free and clear of all hazardous materials and soil contamination, and encumbrances on title. Accompanying this letter is a *Summary Statement of Just Compensation* which shows the basis of the amount offered.

Accompanying this letter is the City's Real Estate Purchase Agreement for your consideration. The Purchase Agreement is the City's formal offer to purchase the Property and constitutes a legal instrument that becomes a legally binding contract for the sale and purchase of the Property once signed by both parties. If this offer to purchase is acceptable, please execute the Purchase Agreement, along with the Request for Taxpayer Identification for (W-9), and return it to:

TRS Corp.
2850 Serendipity Circle West, Suite 200
Colorado Springs, CO 80917
(719) 494-8067

Upon receipt of the signed documents and necessary approvals by the City/PPRTA, the purchase price will be paid into an escrow account with Land Title Guarantee Company (the "Title Company"). At such time we will coordinate with you to schedule a closing of the purchase of the Property. At closing, a general warranty deed will be executed and funds will be distributed to you by the Title Company. Copies of the recorded deed will be sent to you after they are recorded by the Title Company.

This offer to purchase the Property expires at 5:00 p.m. on November 10, 2014 (30 days). In the event of a failure to receive an acceptance or appropriate response to this offer, the City may return to the City Council for direction, as the City Council may find appropriate.

Please review the enclosed documents and should you have any questions, please contact me at (719) 494-8067 or email jeff.perret@trscorp.us.

Thank you for your continued support and cooperation with this public transportation improvement project.

Sincerely,



Jeff Perret
TRS Corp.

On behalf of the City of Colorado Springs Woodmen Road Improvements Phase II Project

Enclosures: Legal Description(s) and Depiction Exhibit(s) RW-248
Right of Way Plan Sheet(s)
Summary Statement of Just Compensation
Real Estate Purchase Agreement
Acquisition Process Statement
Request for Taxpayer Identification form (W-9)
CDOT Demographic Form w/ Stamped Return Envelope
Right of Way Property Acquisition Information Booklet
Appraisal Receipt
City of Colorado Springs Appraisal
Copy of Title Commitment

EXHIBIT "A"

Project No. STU M240-046 Unit II

Project Code: 12717

Date: January 28, 2013

DESCRIPTION

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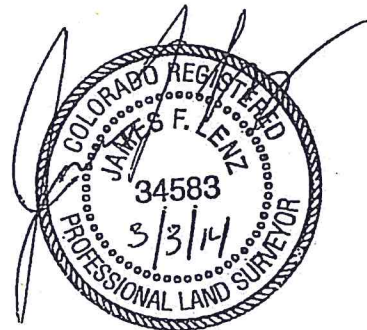
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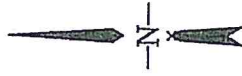


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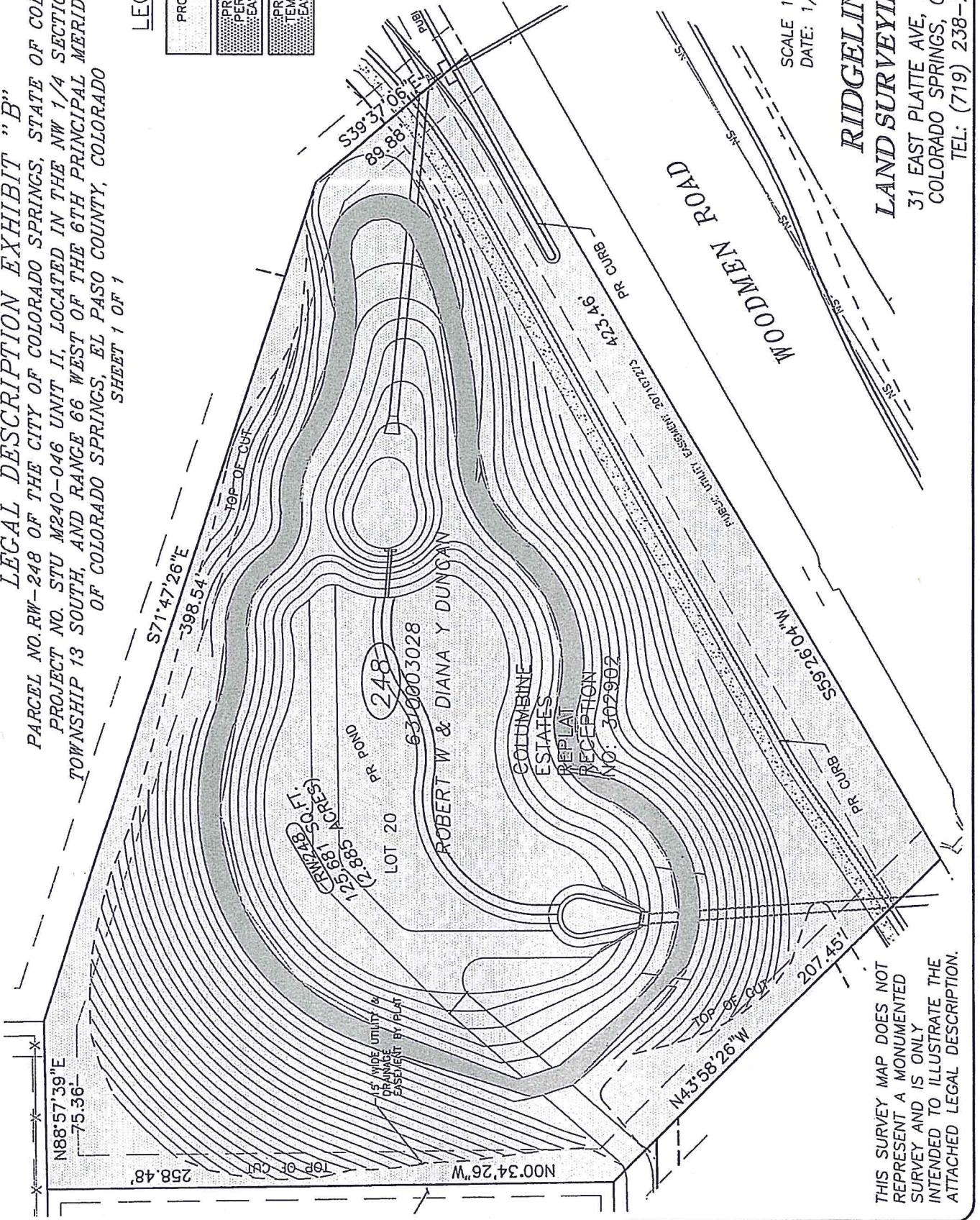
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	PROPOSED ROW
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RIDGELINE
LAND SURVEYING LLC
 31 EAST PLATTE AVE, SUITE 206
 COLORADO SPRINGS, CO 80903
 TEL: (719) 238-2917



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COPY

SUMMARY STATEMENT OF JUST COMPENSATION

October 10, 2014

Robert W. Duncan and Diana Y. Duncan
6154 Cottontail Road NE
Rio Rancho, NM 87144-1543

RE: Woodmen Road Improvements Phase II
El Paso County Assessor No. 63100-03-028
3038 East Woodmen Road, Colorado Springs, CO 80920

Dear Mr. and Mrs. Duncan:

This statement is intended to furnish you with a written summary of the basis of the amount established as just compensation for a portion of your property located at 3038 East Woodmen Road, in Colorado Springs.

The summary of just compensation is as follows:

3038 East Woodmen Road
Also known as APN 63100-03-028

Fair Market Value (Appraisal by Richard Muegge) \$175,000.00

TOTAL JUST COMPENSATION **\$175,000.00**

EXHIBIT "A"

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Project Code: 12717

Date: January 28, 2013

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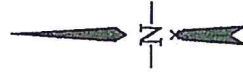


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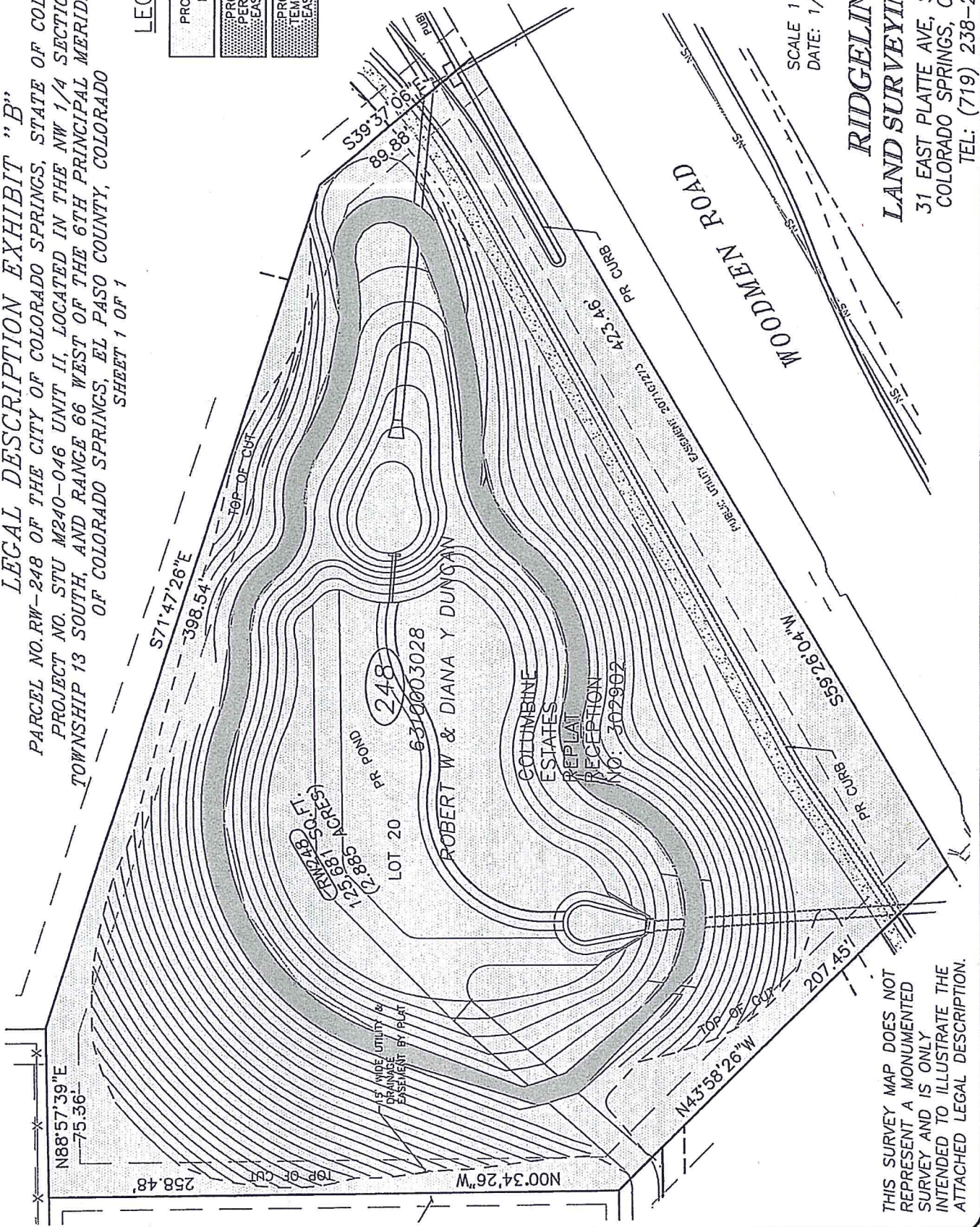
LEGEND

	PROPOSED ROW
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SCALE 1"=60'
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RIDGELINE
LAND SURVEYING LLC
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 COLORADO SPRINGS, CO 80903
 TEL: (719) 238-2917



THIS SURVEY MAP DOES NOT REPRESENT A MONUMENTED SURVEY AND IS ONLY INTENDED TO ILLUSTRATE THE ATTACHED LEGAL DESCRIPTION.



Land Title Guarantee Company
CUSTOMER DISTRIBUTION

Date: 10-03-2014

COPY

Our Order Number: SR55039976-7

Property Address:

3038 EAST WOODMEN ROAD- 63100-03-028 COLORADO SPRINGS, CO 80920

If you have any inquiries or require further assistance, please contact one of the numbers below:

For Title Assistance:

Residential Title "SR" Unit

Bev Labbe

102 S TEJON #760

COLORADO SPRINGS, CO 80903

Phone: 719-634-4821

Fax: 719-634-3190

E-Mail: blabbe@ltgc.com

TRANSPORTATION RESOURCE SERVICES

2850 SERENDIPITY CIRCLE WEST

SUITE 200

COLORADO SPRINGS, CO 80917

Attn: WENDY RODENBERG

Phone: 719-494-8067

Fax: 719-495-0546

E-Mail: wendy.rodenberg@trscorp.us

Sent Via EMail

Old Republic National Title Insurance Company

ALTA COMMITMENT

Our Order No. SR55039976-7

Schedule A

Cust. Ref.:

Property Address:

3038 EAST WOODMEN ROAD- 63100-03-028 COLORADO SPRINGS, CO 80920

1. **Effective Date:** October 03, 2014 at 5:00 P.M.

2. **Policy to be Issued, and Proposed Insured:**

"TBD" Commitment

Proposed Insured:

A BUYER TO BE DETERMINED

3. **The estate or interest in the land described or referred to in this Commitment and covered herein is:**

A Fee Simple

4. **Title to the estate or interest covered herein is at the effective date hereof vested in:**

ROBERT W. DUNCAN AND DIANA Y. DUNCAN

5. **The Land referred to in this Commitment is described as follows:**

SEE ATTACHED PAGE(S) FOR LEGAL DESCRIPTION

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LEGAL DESCRIPTION

A TRACT OR PARCEL NO. RW-248 OF THE CITY OF COLORADO SPRINGS, STATE OF COLORADO, PROJECT NO. STU M240-046 UNIT II LOCATED IN THE NW 1/4 SECTION 10, TOWNSHIP 13 SOUTH, AND RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF COLORADO SPRINGS, EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 20, BLOCK 8, OF THE VACATION AND REPLAT OF COLUMBINE ESTATES RECORDED WITH RECEPTION NO. 302902, IN THE RECORDS OF EL PASO COUNTY, COLORADO.

BASIS OF BEARINGS FOR THIS DESCRIPTION ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 13 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO. SAID LINE BEARS NORTH 89 DEGREES 22 MINUTES 46 SECONDS EAST A DISTANCE OF 2619.18 FEET FROM THE NORTH 1/4 CORNER OF SECTION 10 (MONUMENTED WITH A 3 1/4" ALUM. CAP PLS 10377) TO THE NORTHEAST CORNER OF SECTION 10 (MONUMENTED WITH A 3 1/4" ALUM. CAP PLS 10956)

THE FORGOING DESCRIPTION HAS BEEN PREPARED BY OR UNDER MY DIRECT SUPERVISION.

JAMES F. LENZ PLS 34583
FOR AND ON BEHALF OF
RIDGELINE LAND SURVEYING LLC.

ALTA COMMITMENT

Schedule B-1

(Requirements)

Our Order No. SR55039976-7

The following are the requirements to be complied with:

Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest to be insured.

Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record, to-wit:

1. WARRANTY DEED FROM ROBERT W. DUNCAN AND DIANA Y. DUNCAN TO A BUYER TO BE DETERMINED CONVEYING SUBJECT PROPERTY.

NOTE: ADDITIONAL REQUIREMENTS OR EXCEPTIONS MAY BE NECESSARY WHEN THE BUYERS NAMES ARE ADDED TO THIS COMMITMENT. COVERAGES AND/OR CHARGES REFLECTED HEREIN, IF ANY, ARE SUBJECT TO CHANGE UPON RECEIPT OF THE CONTRACT TO BUY AND SELL REAL ESTATE AND ANY AMENDMENTS THERETO.

ALTA COMMITMENT

Schedule B-2

(Exceptions)

Our Order No. SR55039976-7

The policy or policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company:

1. Any facts, rights, interests, or claims thereof, not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
2. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.
6. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
7. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
8. TERMS, CONDITIONS AND PROVISIONS OF ANNEXATION ORDINANCE RECORDED DECEMBER 09, 1994 IN BOOK 6574 AT PAGE 1472. ANNEXATION PLAT RECORDED DECEMBER 9, 1994 UNDER RECEPTION NO. 94163726.
9. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF A VACATION AND REPLAT OF A PORTION OF BLOCKS 8 AND 9, COLUMBINE ESTATES RECORDED FEBRUARY 28, 1977 UNDER RECEPTION NO. 302902.
10. COVENANTS, CONDITIONS, AND RESTRICTIONS, WHICH DO NOT CONTAIN A FORFEITURE OR REVERTER CLAUSE, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS CONTAINED IN INSTRUMENT RECORDED JANUARY 21, 1965 IN BOOK 2053 AT PAGE 921. AMENDMENT TO COVENANTS RECORDED JANUARY 19, 1990 IN BOOK 5704 AT PAGE 580. AMENDMENT THERETO RECORDED OCTOBER 21, 2004 UNDER RECEPTION NO. 204175707.

ALTA COMMITMENT

Schedule B-2

(Exceptions)

Our Order No. SR55039976-7

The policy or policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company:

11. TERMS, CONDITIONS AND PROVISIONS OF PERMANENT EASEMENT AGREEMENT RECORDED AUGUST 15, 2007 AT RECEPTION NO. 207107273.

**LAND TITLE GUARANTEE COMPANY and LAND TITLE GUARANTEE COMPANY - GRAND JUNCTION
DISCLOSURE STATEMENTS**

Note: Pursuant to CRS 10-11-122, notice is hereby given that:

- A) The subject real property may be located in a special taxing district.
- B) A Certificate of Taxes Due listing each taxing jurisdiction shall be obtained from the County Treasurer or the County Treasurer's authorized agent.
- C) The information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor.

Note: Effective September 1, 1997, CRS 30-10-406 requires that all documents received for recording or filing in the clerk and recorder's office shall contain a top margin of at least one inch and a left, right and bottom margin of at least one half of an inch. The clerk and recorder may refuse to record or file any document that does not conform, except that, the requirement for the top margin shall not apply to documents using forms on which space is provided for recording or filing information at the top margin of the document.

Note: Colorado Division of Insurance Regulation 3-5-1, Section 7L requires that "Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed". Provided that Land Title Guarantee Company conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction, exception number 5 will not appear on the Owner's Title Policy and the Lenders Policy when issued.

Note: Affirmative mechanic's lien protection for the Owner may be available (typically by deletion of Exception no. 4 of Schedule B, Section 2 of the Commitment from the Owner's Policy to be issued) upon compliance with the following conditions:

- A) The land described in Schedule A of this commitment must be a single family residence which includes a condominium or townhouse unit.
- B) No labor or materials have been furnished by mechanics or material-men for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months.
- C) The Company must receive an appropriate affidavit indemnifying the Company against un-filed mechanic's and material-men's liens.
- D) The Company must receive payment of the appropriate premium.
- E) If there has been construction, improvements or major repairs undertaken on the property to be purchased within six months prior to the Date of the Commitment, the requirements to obtain coverage for unrecorded liens will include: disclosure of certain construction information; financial information as to the seller, the builder and or the contractor; payment of the appropriate premium fully executed Indemnity Agreements satisfactory to the company, and, any additional requirements as may be necessary after an examination of the aforesaid information by the Company.

No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay.

Note: Pursuant to CRS 10-11-123, notice is hereby given:

This notice applies to owner's policy commitments containing a mineral severance instrument exception, or exceptions, in Schedule B, Section 2.

- A) That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
- B) That such mineral estate may include the right to enter and use the property without the surface owner's permission.

Note: Pursuant to CRS 10-1-128(6)(a), It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial or insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

Nothing herein contained will be deemed to obligate the company to provide any of the coverages referred to herein unless the above conditions are fully satisfied.

JOINT NOTICE OF PRIVACY POLICY OF
LAND TITLE GUARANTEE COMPANY, LAND TITLE GUARANTEE COMPANY - GRAND JUNCTION,
LAND TITLE INSURANCE CORPORATION AND OLD REPUBLIC NATIONAL TITLE INSURANCE
COMPANY

This Statement is provided to you as a customer of Land Title Guarantee Company and Meridian Land Title, LLC, as agents for Land Title Insurance Corporation and Old Republic National Title Insurance Company.

We want you to know that we recognize and respect your privacy expectations and the requirements of federal and state privacy laws. Information security is one of our highest priorities. We recognize that maintaining your trust and confidence is the bedrock of our business. We maintain and regularly review internal and external safeguards against unauthorized access to non-public personal information ("Personal Information").

In the course of our business, we may collect Personal Information about you from:

- * applications or other forms we receive from you, including communications sent through TMX, our web-based transaction management system;
- * your transactions with, or from the services being performed by, us, our affiliates, or others;
- * a consumer reporting agency, if such information is provided to us in connection with your transaction; and
- * the public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates and non-affiliates.

Our policies regarding the protection of the confidentiality and security of your Personal Information are as follows:

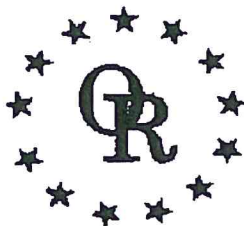
- * We restrict access to all Personal Information about you to those employees who need to know that information in order to provide products and services to you.
- * We maintain physical, electronic and procedural safeguards that comply with federal standards to protect your Personal Information from unauthorized access or intrusion.
- * Employees who violate our strict policies and procedures regarding privacy are subject to disciplinary action.
- * We regularly assess security standards and procedures to protect against unauthorized access to Personal Information.

WE DO NOT DISCLOSE ANY PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT PERMITTED BY LAW.

Consistent with applicable privacy laws, there are some situations in which Personal Information may be disclosed. We may disclose your Personal Information when you direct or give us permission; when we are required by law to do so, for example, if we are served a subpoena; or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

Our policy regarding dispute resolution is as follows. Any controversy or claim arising out of or relating to our privacy policy, or the breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Commitment to Insure



ALTA Commitment - 2006 Rev.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a Minnesota corporation, (Company) for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the requirements; all subject to the provisions of Schedule A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company. All liability and obligation under this commitment shall cease and terminate six months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

CONDITIONS AND STIPULATIONS

1. The term "mortgage", when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquires actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and the Conditions and Stipulations and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at www.alta.org.

STANDARD EXCEPTIONS

In addition to the matters contained in the Conditions and Stipulations and Exclusions from Coverage above referred to, this Commitment is also subject to the following:

1. Rights or claims of parties in possession not shown by the Public Records.
2. Easements, or claims of easements, not shown by the Public Records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey or inspection of the Land would disclose and which are not shown by the Public Records.
4. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the Public Records.
5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.

IN WITNESS WHEREOF, Old Republic National Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A to be valid when countersigned by a validating officer or other authorized signatory.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South
Minneapolis, Minnesota 55401
(612) 371-1111


Authorized Signature




Mark Bilbrey
President


Rande Yeager
Secretary

AMERICAN
LAND TITLE
ASSOCIATION



**Request for Taxpayer
Identification Number and Certification**

Give form to the
requester. Do not
send to the IRS.

Print or type
See Specific instructions on page 2.

Name (as shown on your income tax return)
Land Title Guarantee Company

Business name, if different from above

Check appropriate box: Individual/Sole proprietor Corporation Partnership
 Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ Exempt payee
 Other (see instructions) ▶

Address (number, street, and apt. or suite no.)
3033 E. 1st Avenue, Suite 600

City, state, and ZIP code
Denver, CO 80206

List account number(s) here (optional)

Requester's name and address (optional)

COPY

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number	
or	
Employer identification number	
84	0572036

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here Signature of U.S. person ▶ *Thomas J. Blah* Date ▶ **4-29-08**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,