DRAFT

Parcel #5

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into this ___ day of _____, 2020, by and between Roaring Fork Transportation Authority ("RFTA") and Blue Heron Condominium Association ("Property Owner").

RECITALS

WHEREAS, RFTA is the owner of the former Denver Rio Grande Western Railway ("DRGW") Aspen Branch right of way that extends from Glenwood Springs to Woody Creek ("the ROW");

WHEREAS, the DRGW acquired segments of the ROW by grant from the federal government pursuant to the 1875 General Right of Way Act ("1875 Act") and other segments through deeds;

WHEREAS, DRGW conveyed the ROW to RFTA's predecessor in interest, Roaring Fork Railroad Holding Authority ("RFRHA") by Bargain and Sale Deed on June 28, 1997 and recorded July 3, 1997 at Book 1024, Page 600 of the Garfield County Clerk and Recorder;

WHEREAS, Property Owner is the owner of certain real property adjacent to the ROW;

WHEREAS, according to a property survey (the "Survey") completed by Farnsworth Group, Inc. for RFTA and deposited with the Garfield County Surveyor on or about December 2, 2008 at Reception Nos. 784 through 789, certain improvements related to the Property Owner's business were constructed within the ROW granted pursuant to the 1875 Act as depicted by the purple shaded portion of **Exhibit A** attached hereto that is adjacent to Lot 9 depicted in **Exhibit A**, and such improvements depicted in green within the purple shaded area adjacent to Lot 9 depicted in **Exhibit A**;

WHEREAS, the Survey and the Property Owner's potential claims to a property interest in any portion of the ROW create a potential dispute related to title; and

WHEREAS, RFTA and Property Owner wish to resolve their differences and enter into this Agreement on the terms set forth herein;

AGREEMENT

NOW THEREFORE, for the consideration of the mutual promises and the exchange of properties set forth herein, the sufficiency of which is hereby acknowledged, RFTA and Property Owner agree as follows:

1. Within thirty (30) days of the execution of this Agreement, RFTA agrees to deliver to Property Owner in substantially the form attached hereto as **Exhibit B** a Bargain and Sale Deed for the parcel shaded in purple and adjacent to Lot 9 on **Exhibit A** attached hereto.

2. Upon receipt of RFTA's Bargain and Sale Deed for the parcel set forth in paragraph 1 above, Property Owner shall deliver to RFTA in substantially the form attached hereto as **Exhibit C** a Quitclaim Deed to any right, claim, title, or interest Property Owner has or may have in the

future to any portion of the ROW, including, but not limited to, any portion of the ROW lying adjacent to Property Owner's property.

3. Upon receipt of the Bargain and Sale Deed from RFTA, Property Owner agrees to release RFTA, its Members, agents, surveyors, attorneys, successors, and assigns, from any and all claims of any kind related to the Survey and RFTA's ownership of the ROW.

4. By entering into this Agreement, RFTA does not acknowledge, admit, or agree that Property Owner has or ever had any right, claim, title, or interest in any portion of the ROW and RFTA specifically asserts that it holds title to the entirety of the ROW per the conveyance of the ROW by DRGW to RFTA's predecessor in interest RFRHA.

5. The covenants, terms, conditions, and agreements of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, executors, successors and assigns, and shall be specifically enforceable.

6. The interpretation and performance of this Agreement shall be governed by the laws of the State of Colorado.

7. Should either party institute any action or proceeding to enforce any provision of this Agreement or for damages by reason of an alleged breach of any provision hereof, the prevailing party shall be entitled to receive all costs and expenses including reasonable attorney fees and disbursements incurred by such prevailing party in connection with such action or proceeding.

8. RFTA and the Property Owner have read this Agreement and understand its contents. If necessary, the parties have had the Agreement explained by their counsel.

9. Each person executing this Agreement has full legal competence and authority to execute, deliver, and perform this Agreement and to bind the person and/or entity which he or she purports to represent.

10. This Agreement constitutes the full and complete understanding of the parties with respect to the subject matter contained in the Agreement and supersedes any and all prior agreements and understandings, whether written or oral. No addition, deletion or amendment shall have any force or effect, except as mutually agreed to in writing. The parties acknowledge that no promise, inducement or agreement not expressed herein has been made, and that the terms of this Agreement are contractual and not a mere recital.

11. All Parties have cooperated in the drafting and preparation of this Agreement. Hence, no construction of this Agreement shall be construed against any Party.

12. This Agreement shall not be recorded in the real property records of the county where the properties are located and only the deeds in the form attached hereto as **Exhibit B** and **Exhibit C** shall be recorded in the real property records of the counties where the properties are located.

13. This Agreement may be executed in any counterparts, each of which when so executed shall be deemed an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered as of the date first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

ROARING FORK TRANSPORTATION AUTHORITY

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ as _____ of Roaring Fork Transportation Authority.

My Commission expires: _____

Witness my hand and official seal.

_____
Notary Public

BLUE HERON CONDOMINIUM ASSOCIATION

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ as _____ of Blue Heron Condominium Association.

My Commission expires: _____

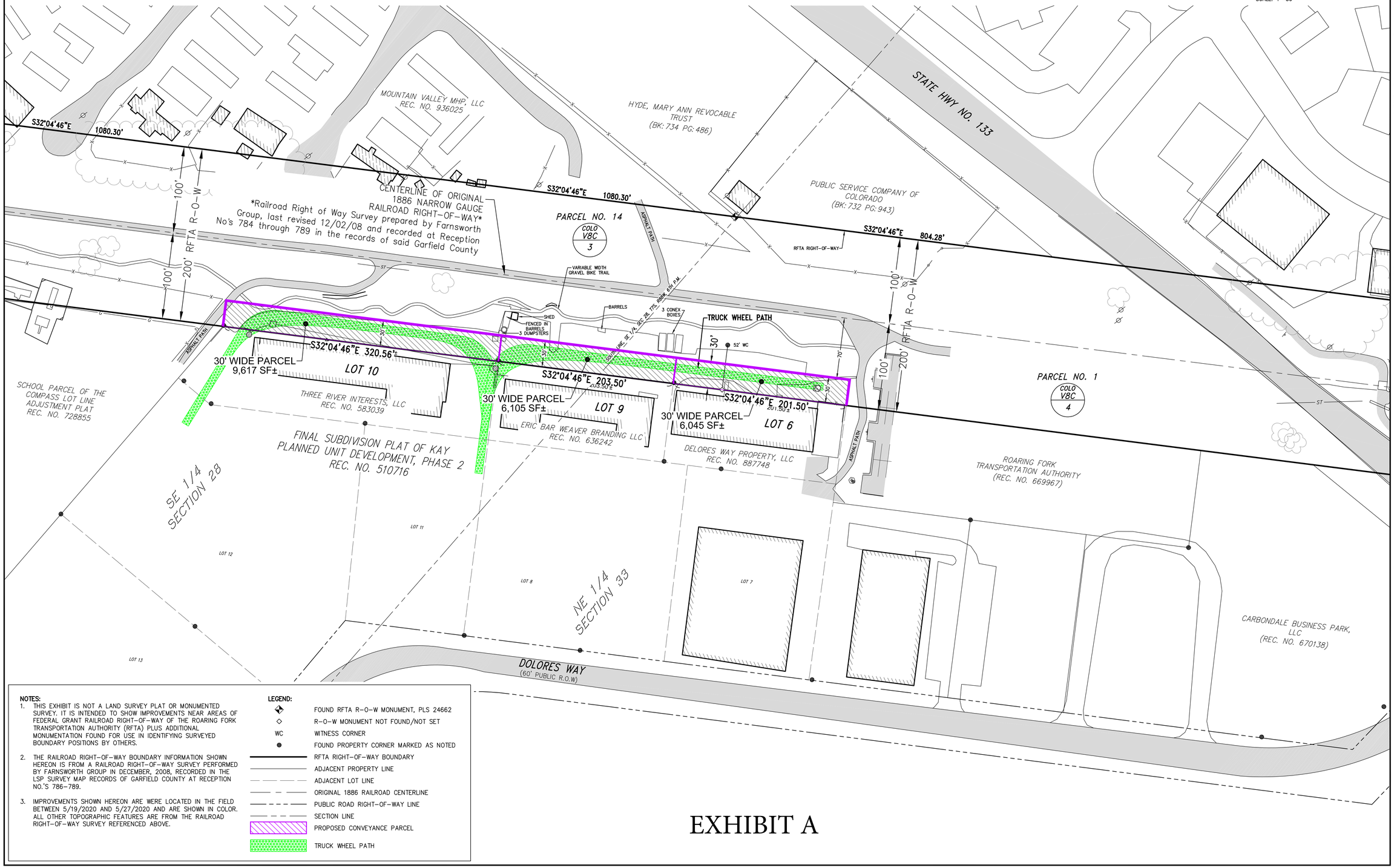
Witness my hand and official seal.

_____
Notary Public

DRAFT

DOLORES WAY BUSINESS PROPERTIES
AREA EXHIBIT - RFTA RIGHT-OF-WAY

SITUATED IN SECTIONS 28 & 33, TOWNSHIP 7 SOUTH, RANGE 88 WEST, 6TH P.M.
GARFIELD COUNTY, STATE OF COLORADO



NOTES:

1. THIS EXHIBIT IS NOT A LAND SURVEY PLAT OR MONUMENTED SURVEY. IT IS INTENDED TO SHOW IMPROVEMENTS NEAR AREAS OF FEDERAL GRANT RAILROAD RIGHT-OF-WAY OF THE ROARING FORK TRANSPORTATION AUTHORITY (RFTA) PLUS ADDITIONAL MONUMENTATION FOUND FOR USE IN IDENTIFYING SURVEYED BOUNDARY POSITIONS BY OTHERS.
2. THE RAILROAD RIGHT-OF-WAY BOUNDARY INFORMATION SHOWN HEREON IS FROM A RAILROAD RIGHT-OF-WAY SURVEY PERFORMED BY FARNSWORTH GROUP IN DECEMBER, 2008, RECORDED IN THE LSP SURVEY MAP RECORDS OF GARFIELD COUNTY AT RECEPTION NO.'S 786-789.
3. IMPROVEMENTS SHOWN HEREON ARE WERE LOCATED IN THE FIELD BETWEEN 5/19/2020 AND 5/27/2020 AND ARE SHOWN IN COLOR. ALL OTHER TOPOGRAPHIC FEATURES ARE FROM THE RAILROAD RIGHT-OF-WAY SURVEY REFERENCED ABOVE.

LEGEND:

- FOUND RFTA R-O-W MONUMENT, PLS 24662
- R-O-W MONUMENT NOT FOUND/NOT SET
- WC — WITNESS CORNER
- FOUND PROPERTY CORNER MARKED AS NOTED
- RFTA RIGHT-OF-WAY BOUNDARY
- ADJACENT PROPERTY LINE
- ADJACENT LOT LINE
- ORIGINAL 1886 RAILROAD CENTERLINE
- PUBLIC ROAD RIGHT-OF-WAY LINE
- SECTION LINE
- PROPOSED CONVEYANCE PARCEL
- TRUCK WHEEL PATH

EXHIBIT A

ISSUE:	Date	By	Description
1	8/17/20	CCP	PROPOSED RIGHT-OF-WAY CONVEYANCE
2	11/19/20	JN	UPDATE PROPOSED RIGHT-OF-WAY CONVEYANCE

CLIENT:
ROARING FORK TRANSPORTATION AUTHORITY
1340 MAIN STREET
CARBONDALE, CO 81623

Date: 10/20/2020
Drawn: CCP
Checked: DCD
Book No.: -

Farnsworth GROUP
5613 DTC PARKWAY, SUITE 1100 - GREENWOOD VILLAGE, COLORADO 80111
(303) 694-8838 / info@fw-inc.com www.fw-inc.com

DOLORES WAY BUSINESS PROPERTIES
AREA EXHIBIT - RFTA RIGHT-OF-WAY
SECTIONS 28 & 33, T7S, R88W, 6th P.M.
COUNTY OF GARFIELD, STATE OF COLORADO

Project No.: 0130736.2020

SHEET 1 OF 1

| jnel | P:\2013\0130736.00 - RFtc Contract 13-023 - Rio Grande Trail Row Plan Development\PROJECTS\[13] Egrow-fed_grant_row\Egrow-c'dale_hy133_to_river\Dolores Way Prop._ADM_Center\V_ROW Conveyance - DOLORES PROP.dwg | 11/20/2020 9:19 AM |

DRAFT

<u>EXHIBIT B</u>

TO SETTLEMENT AGREEMENT

BARGAIN AND SALE DEED

THIS BARGAIN AND SALE DEED made this ___ day of _____, 20__, between the Roaring Fork Transportation Authority whose address is 0051 Service Center Drive, Aspen, Pitkin County, Colorado 81611 (hereinafter "Grantor") and Blue Heron Condominium Association whose address is 2211 Dolores Way, Carbondale, Garfield County, Colorado 81623 ("Grantee");

WITNESSETH:

That the Grantor, for and in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby sells and conveys to the Grantee, its successors and assigns, the following real property in the County of Garfield, Colorado, to wit:

See **Exhibit A** attached hereto.

TO HAVE AND HOLD the same, together with all its appurtenances and privileges thereunto belonging.

EXECUTED as of this ____ day of _____, 20__.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

ROARING FORK TRANSPORTATION AUTHORITY

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ as _____ of Roaring Fork Transportation Authority.

My Commission expires: _____

Witness my hand and official seal.

_____
Notary Public

DRAFT

EXHIBIT A
PARCEL DESCRIPTION
ROARING FORK TRANSPORTATION AUTHORITY
FEDERAL GRANT RIGHT OF WAY
IN GOV'T LOT 16 and 20, SECTION 28, and portion of
GOV'T LOT 2, SECTION 33, T7S, R88W, 6TH PM

A parcel of land being a portion of ICC Parcel #1 (and Valuation Section 8-C and Map Sheet 4) and Parcel #14 (Denver & Rio Grande Railroad Valuation Section 8-C; Map Sheet 3) of the former Aspen Branch of the Denver and Rio Grande Railroad (D&RG RR) Company Right of Way (ROW) described in Deed recorded 7/03/1997 at Reception No. 510445, in Book 1024, Page 600, and the Correction Bargain and Sale Deed recorded 9/09/2008 at Reception No. 755399 in the records of Garfield County, State of Colorado, situated in Government Lot 16 and 20, Section 28, and portions of Government Lot 2, Section 33, Township 7 South, Range 88 West of the Sixth Principal Meridian, Garfield County, Colorado, that portion of said ROW being a strip of land, 200 feet in width, lying 100 feet on each side of the original surveyed centerline of said Aspen Branch ROW, said Parcel of Land described as follows:

The southwesterly 30 ft. feet of that portion of the Roaring Fork Transportation Authority (RFTA) railroad ROW, as successor to the Roaring Fork Transportation Holding Authority, described in the above said deeds recorded at Reception No's 510455 and 755399, adjoining Lot 9, Phase 2 of the Final Subdivision Plat of KAY PLANNED UNIT DEVELOPMENT, PHASE 2, recorded at Reception No. 510716 of Garfield County Records, the ends of the 30 ft. strip to be at right angles to the said RFTA 200 ft. ROW.

This description, and the accompanying Exhibit Map were prepared from the said KAY PLANNED UNIT DEVELOPMENT PHASE 2 Plat and the Railroad Right of Way Survey prepared by Farnsworth Group, last revised 12/02/08 and recorded at Reception No's 784 through 789 in the records of said Garfield County. Please refer to said Plat and Railroad Right of Way Survey for additional information and boundary detail.

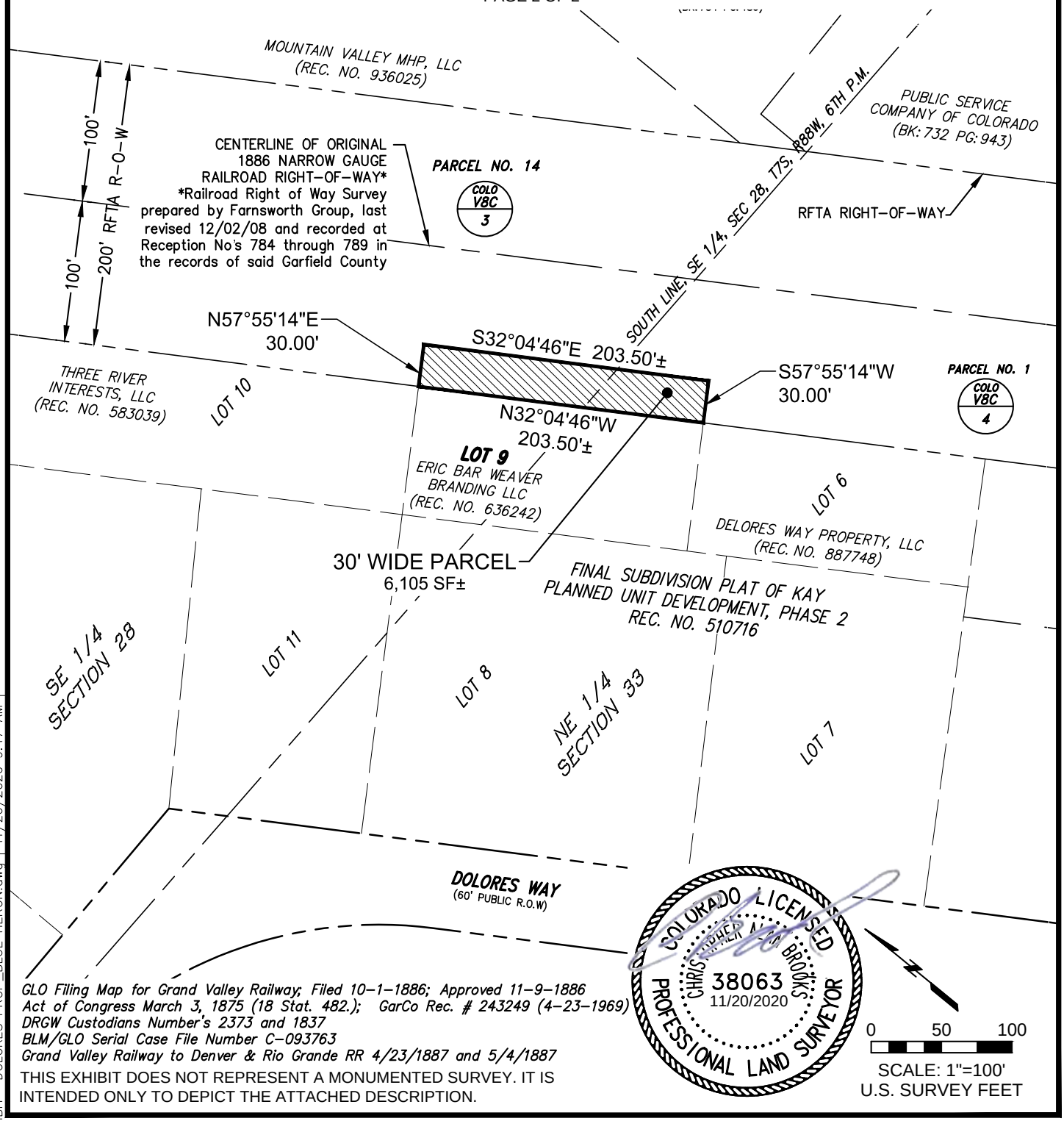
The above description was prepared by Christopher Brooks, PLS 38063
For and on behalf of FARNSWORTH GROUP, INC.
5613 DTC Parkway, Suite 1100
Greenwood Village, CO 80111
303.692.8838

COLORADO LICENSED
CHRISTOPHER ALAN BROOKS
38063
11/20/2020
PROFESSIONAL LAND SURVEYOR

ILLUSTRATION FOR

EXHIBIT MAP A

PAGE 2 OF 2



GLO Filing Map for Grand Valley Railway; Filed 10-1-1886; Approved 11-9-1886
Act of Congress March 3, 1875 (18 Stat. 482.); GarCo Rec. # 243249 (4-23-1969)
DRGW Custodians Number's 2373 and 1837
BLM/GLO Serial Case File Number C-093763
Grand Valley Railway to Denver & Rio Grande RR 4/23/1887 and 5/4/1887

THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

Farnsworth GROUP
5613 DTC PARKWAY, SUITE 1100
GREENWOOD VILLAGE, COLORADO 80111
(303) 692-8838 / info@f-w.com

RFTA Federal Grant ROW

30' WIDE PARCEL

LOT 9, FINAL SUBDIVISION PLAT OF KAY PLANNED UNIT DEVELOPMENT, PHASE 2 - NE 1/4 OF SECTION 28 & SECTION 33, T. 7 S., R. 88 W. OF THE 6TH P.M., TOWN OF CARBONDALE, COUNTY OF GARFIELD, STATE OF COLORADO

PROJECT NO.:	0130736.2020
DRAWN:	JAN
REVIEWED:	CT, CB, DD
DATE:	2020.11.19

2 OF 2

| jneel | P:\2013\0130736.00 - RFTA Contract 13-023 - Rio Grande Trail ROW Plan Development\PROJECTS\[13] FGROW-Fed_Grant_ROW\FGROW-C'Dale_Hy133_to_River\Dolores Way Prop_Blue Heron\V_LEGAL EXHIBIT- DOLORES PROP_BLUE HERON.dwg | 11/20/2020 9:17 AM |

DRAFT

EXHIBIT C

TO SETTLEMENT AGREEMENT

QUITCLAIM DEED

THIS QUITCLAIM DEED made this ___ day of _____, 20__, between Blue Heron Condominium Association whose address is 2211 Dolores Way, Carbondale, Garfield County, Colorado 81623 (hereinafter "Grantor") and Roaring Fork Transportation Authority whose address is 0051 Service Center Drive, Aspen, Pitkin County, Colorado 81611 ("Grantee");

WITNESSETH:

That the Grantor, for and in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold, and QUITCLAIMED and by these presents does remise, release, sell, and QUITCLAIM unto the Grantee, and the Grantee's heirs and assigns forever, all of the right, title, interest, claim, and demand that the Grantor has in and to the following real property:

> The former Denver Rio Grande Western Railway Aspen Branch right of way that extends from Glenwood Springs to Woody Creek and which is described in the Bargain and Sale Deed recorded July 3, 1997 at Reception No. 510445, in Book 1024, Page 600 and the Correction Bargain and Sale Deed recorded September 9, 2008 at Reception No. 755399 in the Garfield County, State of Colorado records.

TO HAVE AND HOLD the same, together with all its appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest, and claim, whatsoever, of the Grantor, either in law or in equity, to the only proper use, benefit and behalf of the Grantee, and the Grantee's heirs and assigns forever.

EXECUTED as of this ____ day of _____, 20__.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

BLUE HERON CONDOMINIUM ASSOCIATION

By: _____

Name: _____

Title:_____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Acknowledged, subscribed and sworn to before me this ____ day of _____, 20__, by _____.

WITNESS my hand and official seal. My Commission expires: _____

_____
Notary Public

(SEAL)