—**DRAFT**

02/06/2020

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF GLENWOOD SPRINGS AND THE ROARING FORK TRANSPORTATION AUTHORITY FOR THE PURCHASE OF PROPERTY AND THE PEFORMANCE OF TRANSPORTATION PROJECTS

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into effective as of the ___ day of _____ 2020, regardless of the day actually signed, by and between the CITY OF GLENWOOD SPRINGS, COLORADO (the "City") and the ROARING FORK TRANSPORTATION AUTHORITY ("RFTA"), together "the Parties".

WHEREAS, the City has offered to sell and RFTA desires to purchase that real property, commonly known as the Glenwood Springs Municipal Operations Center (the "GMOC") and access road to the GMOC, described in that Contract to Buy and Sell Real Estate and the Addendum thereto (collectively the "Contract"), a copy of which Contract is attached hereto and made a part hereof as Exhibit "A"; and

WHEREAS, upon the successful closing of the Contract RFTA has agreed to perform the following

- Provide $200,000 cash (an amount identified in RFTA's approved Destination 2040 Plan) for design and/or construction of the Elementary School and High School connections to the River Walk Trail and the crossing of the RFTA Rio Grande railroad corridor, and to make other trail and trail connection improvements along the Rio Grande Railroad Corridor within Glenwood Springs.

- Contribute $100,000 more than Glenwood Springs contributes for the Glenwood Springs/RFTA Corridor Study, reducing Glenwood Springs' estimated share to $241,000.

- Pay the expense for the demolition of the GMOC building, currently estimated to cost approximately $695,000.

NOW, THEREFORE, in consideration of the mutual covenants and agreements identified below, the Parties agree to this IGA as follows:

1. **Incorporation of Recitals.** The forgoing recitals are incorporated herein as if set forth in full.

2. **Purchase of GMOC by RFTA**.

a. Simultaneous with the execution of this Agreement the City and RFTA shall also execute the Contract attached hereto as Exhibit "A" for a purchase price of One Million Two Hundred and Sixty Thousand Dollars ($1,260,000) as provided therein, and shall proceed to close the Contract in accordance with its terms. The Contract provides

for the approval of the conveyance by the affirmative vote of a majority of the qualified electors of the City at an election to be held on April 14, 2020.

b. If the City wants to continue to use the GMOC on a temporary basis after closing of the Contract, the City and RFTA shall enter into a Use Agreement in the form attached as Exhibit "B to the Contract,"

c. Transportation Projects. Following the closing of the Contract as set forth herein, RFTA shall proceed with the following projects that are of mutual interest to the City and RFTA:

- Provide $200,000 cash (an amount identified in RFTA's approved Destination 2040 Plan) for design and/or construction of the Elementary School and High School connections the River Walk Trail and the crossing of the RFTA Rio Grande railroad corridor, and to make other trail and trail connection improvements along the Rio Grande Railroad Corridor within Glenwood Springs.

- Contribute $100,000 more than Glenwood Springs contributes for the Glenwood Springs/RFTA Corridor Study, reducing Glenwood Springs' estimated share to $241,000.

- At the sole cost and expense of RFTA demolish the GMOC building, currently estimated to cost approximately $695,000.

3. **Public Record.** The Parties shall cause all documents necessary to fulfill the purposes of this IGA to be recorded in the Office of the Garfield County Clerk and Recorder.

4. **Preservation of Purpose and Survival.** No portion of this IGA shall be read or understood to alter, amend, or terminate the purpose and intent of the IGA or the rights and responsibilities of the Parties created therein. Any conflict between the provisions of this IGA shall be resolved by the Parties in a manner agreed to be the least disruptive to the preservation of the IGA's purpose.

5. **Breach and Notice.** If either Party fails to perform its respective obligations under this Agreement, the non-breaching Party shall provide thirty (30) days' notification of such failure to the breaching Party's representative as provided in paragraph 17. If the breaching Party fails to correct or remedy the breach, the non-breaching Party may proceed in law or equity to seek injunctive relief, specific performance, and/or damages incurred as a result of the Breach. With regard to the Contract attached as Exhibit "A", however, the terms of the Contract shall control.

6. **Good Faith.** There is an obligation of good faith on the part of the Parties, including the obligation to make timely communication of information that may reasonably be believed to be material to the other Party.

7. **No Waiver of Governmental Immunity Act.** Nothing herein shall be deemed a waiver of the Colorado Governmental Immunity Act for or by either Party. C.R.S. § 24-10-101 *et seq.*

8. **No Joint Venture.** Nothing in this Agreement shall be construed to create a joint venture, partnership, employer/employee or other relationship between the Parties other than independent contracting parties. Except as permitted under the remedies provisions hereunder, neither Party shall have the express or implied right to act for, on behalf of, or in the name of the other Party.

9. **No Third-Party Beneficiary.** No third party may enforce or rely upon this IGA.

10. **Term of Agreement.** This IGA shall become effective upon signature of the last Party to sign and will terminate upon completion of the Transportation Projects described in Paragraph 2(c) except as otherwise provided for herein. All rights concerning remedies, fees and costs shall survive termination of this IGA.

11. **Amendment and Assignment.** This IGA may be amended by the Parties solely through a written agreement signed by both Parties. This IGA may not be assigned by either Party.

12. **Counterparts.** This IGA may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed the same instrument. Facsimile or photographic signatures of either Party to this IGA or subsequent modifications thereto, shall be effective for all purposes.

13. **Governing Law, Venue and Survival.** The laws of the State of Colorado to the extent not preempted by federal law shall govern the validity, performance and enforcement of this IGA. Should either Party institute legal action for enforcement of this IGA, venue of such action shall be in the United States District Court for the District of Colorado, if the court has jurisdiction; otherwise, any such action shall be filed in Garfield County, Colorado.

14. **Whole Agreement.** This IGA sets forth the whole agreement of the Parties. No representations, either verbal or written, shall be considered binding on either Party to the extent not set forth herein.

15. **Section Headings.** The section headings in this IGA are inserted only for the purpose of convenient reference and are in no way to define, limit or prescribe the scope or intent of this Agreement or any part thereof.

16. **Authority.** Each Party signing this IGA represents and warrants that the individual is fully authorized to enter into and execute this IGA and to bind the Party it represents to the terms and conditions thereof.

17. **Notice and Representatives.** All notices required under this IGA shall be transmitted in writing and shall be deemed duly given when hand-delivered or sent by certified mail, return receipt requested and postage prepaid, or by electronic communication, addressed to the designated representative(s) as follows:

To City: City of Glenwood Springs
Attn.: City Manager
101 West 8th Street
Glenwood Springs, CO 81601

With copy to: City of Glenwood Springs.
Attn.: City Attorney
101 West 8th Street
Glenwood Springs, CO 81601

To RFTA: Roaring Fork Transportation Authority
Attn.: Chief Executive Officer
2307 Wulfsohn Road
Glenwood Springs, CO 81601

With copy to: Roaring Fork Transportation Authority
RFTA General Counsel
2307 Wulfsohn Road
Glenwood Springs, CO 81601

18. **Change of Representatives.** Either Party may, in its sole discretion, change its individual designated representative and the address to which future notices shall be sent by providing written notice to the other Party.

19. **Severability.** Should any provision of this IGA be found to be in conflict with any law of the United States or the State of Colorado or to otherwise be unenforceable, the remaining provisions shall be deemed severable and the validity of such shall not be affected provided that the remaining provisions can be construed in substance to constitute the agreement which the parties intended to enter into under this IGA.

IN WITNESS WHEREOF, the City and RFTA have executed duplicate originals of this Agreement.

CITY OF GLENWOOD SPRINGS, COLORADO

ATTEST:

_____
Catherine Mythen Fletcher, City Clerk

By: _____
Jonathan Godes, Mayor

Date: _____

ROARING FORK TRANSPORTATION AUTHORITY

ATTEST:

_____
Secretary

By: _____
Art Riddle, Chair

Date: _____

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS3-6-18) (Mandatory 1-19)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

CONTRACT TO BUY AND SELL REAL ESTATE (COMMERCIAL)

(☐ Property with No Residences)

(☐ Property with Residences-Residential Addendum Attached)

Date: **February 1, 2020**

AGREEMENT

1. AGREEMENT. Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

2. PARTIES AND PROPERTY.

2.1. Buyer. **Roaring Fork Transportation Authority** (Buyer) will take title to the Property described below as ☐ **Joint Tenants** ☐ **Tenants In Common** ☐ **Other** _____.

2.2. No Assignability. This Contract **IS NOT** assignable by Buyer unless otherwise specified in **Additional Provisions**.

2.3. Seller. **City of Glenwood Springs** (Seller) is the current owner of the Property described below.

2.4. Property. The Property is the following legally described real estate in the County of **Garfield**, Colorado:

See Exhibit "1" attached hereto

known as No. _____ **GlenwoodSprings** **CO** **81601**,
Street Address City State Zip

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

2.5. Inclusions. The Purchase Price includes the following items (Inclusions):

2.5.1. Inclusions - Attached. If attached to the Property on the date of this Contract, the following items are included unless excluded under **Exclusions**: lighting, heating, plumbing, ventilating and air conditioning units, TV antennas, inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories), garage door openers (including _____ remote controls). If checked, the following are owned by the Seller and included (leased items should be listed under **Due Diligence Documents**): ☐ **None** ☐ **Solar Panels** ☐ **Water Softeners** ☐ **Security Systems** ☐ **Satellite Systems** (including satellite dishes). If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

2.5.2. Inclusions – Not Attached. If on the Property, whether attached or not, on the date of this Contract, the following items are included unless excluded under **Exclusions**: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon monoxide alarms, smoke/fire detectors and all keys.

2.5.3. Personal Property - Conveyance. Any personal property must be conveyed at Closing by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except **None**. Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

2.5.4. Other Inclusions. The following items, whether fixtures or personal property, are also included in the Purchase Price: **Fixtures and Furniture**

2.5.5. Parking and Storage Facilities. The use or ownership of the following parking facilities: _____; and the use or ownership of the following storage facilities: **All appurtenant to property**.

Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should investigate.

2.5.6. Trade Fixtures. With respect to trade fixtures, Seller and Buyer agree as follows:

All trade fixtures on the property

The trade fixtures to be conveyed at Closing will be conveyed by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except **None**. Conveyance will be by bill of sale or other applicable legal instrument.

2.6. Exclusions. The following items are excluded (Exclusions):

2.7. Water Rights/Well Rights.

☐ **2.7.1. Deeded Water Rights.** The following legally described water rights: **All appurtenant to the property**

Any deeded water rights will be conveyed by a good and sufficient _____ deed at Closing.

☐ **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in §§ 2.7.1, 2.7.3 and 2.7.4, will be transferred to Buyer at Closing:

☐ **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well. Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is _____.

☐ **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are as follows:

N/A

2.7.5. Conveyance. If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other Rights Relating to Water), § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey such rights to Buyer by executing the applicable legal instrument at Closing.

3. DATES, DEADLINES AND APPLICABILITY.

3.1. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 4.3	Alternative Earnest Money Deadline	**N/A**
		Title	
2	§ 8.1, 8.4	Record Title Deadline	**45 days from MEC**
3	§ 8.2, 8.4	Record Title Objection Deadline	**50 days from MEC**
4	§ 8.3	Off-Record Title Deadline	**45 days from MEC**
5	§ 8.3	Off-Record Title Objection Deadline	**50 days from MEC**
6	§ 8.5	Title Resolution Deadline	**55 days from MEC**
7	§ 8.6	Right of First Refusal Deadline	**N/A**
		Owners' Association	
8	§ 7.2	Association Documents Deadline	**N/A**
9	§ 7.4	Association Documents Termination Deadline	**N/A**
		Seller's Disclosures	
10	§ 10.1	Seller's Property Disclosure Deadline	**30 days from MEC**
11	§ 10.10	Lead-Based Paint Disclosure Deadline (if Residential Addendum attached)	**30 days from MEC**

		Loan and Credit	
12	§ 5.1	New Loan Application Deadline	**N/A**
13	§ 5.2	New Loan Termination Deadline	**N/A**
14	§ 5.3	Buyer's Credit Information Deadline	**N/A**
15	§ 5.3	Disapproval of Buyer's Credit Information Deadline	**N/A**
16	§ 5.4	Existing Loan Deadline	**N/A**
17	§ 5.4	Existing Loan Termination Deadline	**N/A**
18	§ 5.4	Loan Transfer Approval Deadline	**N/A**
19	§ 4.7	Seller or Private Financing Deadline	**N/A**
		Appraisal	
20	§ 6.2	Appraisal Deadline	**N/A**
21	§ 6.2	Appraisal Objection Deadline	**N/A**
22	§ 6.2	Appraisal Resolution Deadline	**N/A**
		Survey	
23	§ 9.1	New ILC or New Survey Deadline	**30 days from MEC**
24	§ 9.3	New ILC or New Survey Objection Deadline	**50 days from MEC**
25	§ 9.3	New ILC or New Survey Resolution Deadline	**55 days from MEC**
		Inspection and Due Diligence	
26	§ 10.3	Inspection Objection Deadline	**50 days from MEC**
27	§ 10.3	Inspection Termination Deadline	**55 days from MEC**
28	§ 10.3	Inspection Resolution Deadline	**60 days from MEC**
29	§ 10.5	Property Insurance Termination Deadline	**N/A**
30	§ 10.6	Due Diligence Documents Delivery Deadline	**30 days from MEC**
31	§ 10.6	Due Diligence Documents Objection Deadline	**40 days from MEC**
32	§ 10.6	Due Diligence Documents Resolution Deadline	**50 days from MEC**
33	§ 10.6	Environmental Inspection Termination Deadline	**55 days from MEC**
34	§ 10.6	ADA Evaluation Termination Deadline	**55 days from MEC**
35	§ 10.7	Conditional Sale Deadline	**N/A**
36	§ 10.10	Lead-Based Paint Termination Deadline (if Residential Addendum attached)	**N/A**
37	§ 11.1, 11.2	Estoppel Statements Deadline	**N/A**
38	§ 11.3	Estoppel Statements Termination Deadline	**N/A**
		Closing and Possession	
39	§ 12.3	Closing Date	**60 days from MEC**
40	§ 17	Possession Date	**At Closing**
41	§ 17	Possession Time	**At Closing**
42	§ 28	**Acceptance Deadline Date**	**09/22/2019**
43	§ 28	**Acceptance Deadline Time**	**5:00 p.m.**

3.2. Applicability of Terms. Any box checked in this Contract means the corresponding provision applies. If any deadline blank in § 3.1 (Dates and Deadlines) is left blank or completed with the abbreviation "N/A", or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline is deleted. If no box is checked in a provision that contains a selection of "None", such provision means that "None" applies.

The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

4. PURCHASE PRICE AND TERMS.

4.1. Price and Terms. The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	**$ 1,260,000**	
2	§ 4.3	Earnest Money		**$ N/A**
3	§ 4.5	New Loan		**$ N/A**
4	§ 4.6	Assumption Balance		**$ N/A**
5	§ 4.7	Private Financing		**$ N/A**
6	§ 4.7	Seller Financing		**$ N/A**

7				
8				
9	§ 4.4	Cash at Closing		$ **1,260,000**
10		**TOTAL**	$	$ **1,260,000**

4.2. Seller Concession. At Closing, Seller will credit to Buyer $_____ (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.

4.3. Earnest Money. The Earnest Money set forth in this Section, in the form of a **N/A**, will be payable to and held by N/A (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

4.3.1. Alternative Earnest Money Deadline. The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

4.3.2. Return of Earnest Money. If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 25 and, except as provided in § 24 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three days of Seller's receipt of such form.

4.4. Form of Funds; Time of Payment; Available Funds.

4.4.1. Good Funds. All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

4.4.2. Time of Payment; Available Funds. All funds, including the Purchase Price to be paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**. Buyer represents that Buyer, as of the date of this Contract, [X] **Does** [ ] **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

4.5. New Loan.

4.5.1. Buyer to Pay Loan Costs. Buyer, except as otherwise permitted in § 4.2 (Seller Concession), if applicable, must timely pay Buyer's loan costs, loan discount points, prepaid items and loan origination fees as required by lender.

4.5.2. Buyer May Select Financing. Buyer may pay in cash or select financing appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in § 4.5.3 (Loan Limitations) or § 30 (Additional Provisions).

4.5.3. Loan Limitations. Buyer may purchase the Property using any of the following types of loans: [ ] **Conventional** [ ] **Other** _____.

4.6. Assumption. Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in § 4.1 (Price and Terms), presently payable at $_____ per _____ including principal and interest presently at the rate of _____% per annum and also including escrow for the following as indicated: [ ] **Real Estate Taxes** [ ] **Property Insurance Premium** and [ ] _____.

Buyer agrees to pay a loan transfer fee not to exceed $_____. At the time of assumption, the new interest rate will not exceed _____% per annum and the new payment will not exceed $_____ per _____ principal and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than $_____, or if any other terms or provisions of the loan change, Buyer has the Right to Terminate under § 25.1 on or before **Closing Date**.

Seller [ ] **Will** [ ] **Will Not** be released from liability on said loan. If applicable, compliance with the requirements for release from liability will be evidenced by delivery [ ] on or before **Loan Transfer Approval Deadline** [ ] at **Closing** of an appropriate letter of commitment from lender. Any cost payable for release of liability will be paid by _____ in an amount not to exceed $_____.

4.7. Seller or Private Financing.

WARNING: Unless the transaction is exempt, federal and state laws impose licensing, other requirements and restrictions on sellers and private financiers. Contract provisions on financing and financing documents, unless exempt, should be prepared by a

licensed Colorado attorney or licensed mortgage loan originator. Brokers should not prepare or advise the parties on the specifics of financing, including whether or not a party is exempt from the law.

4.7.1. Seller Financing. If Buyer is to pay all or any portion of the Purchase Price with Seller financing, ☐ **Buyer** ☐ **Seller** will deliver the proposed Seller financing documents to the other party on or before _____ days before **Seller or Private Financing Deadline**.

4.7.1.1. Seller May Terminate. If Seller is to provide Seller financing, this Contract is conditional upon Seller determining whether such financing is satisfactory to Seller, including its payments, interest rate, terms, conditions, cost and compliance with the law. Seller has the Right to Terminate under § 25.1, on or before **Seller or Private Financing Deadline**, if such Seller financing is not satisfactory to Seller, in Seller's sole subjective discretion.

4.7.2. Buyer May Terminate. If Buyer is to pay all or any portion of the Purchase Price with Seller or private financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost. Buyer has the Right to Terminate under § 25.1, on or before **Seller or Private Financing Deadline**, if such Seller or private financing is not satisfactory to Buyer, in Buyer's sole subjective discretion.

TRANSACTION PROVISIONS

5. FINANCING CONDITIONS AND OBLIGATIONS.

5.1. New Loan Application. If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, must make an application verifiable by such lender, on or before **New Loan Application Deadline** and exercise reasonable efforts to obtain such loan or approval.

5.2. New Loan Review. If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the New Loan is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost of such New Loan. This condition is for the sole benefit of Buyer. Buyer has the Right to Terminate under § 25.1, on or before **New Loan Termination Deadline**, if the New Loan is not satisfactory to Buyer, in Buyer's sole subjective discretion. Buyer does not have a Right to Terminate based on the New Loan if the objection is based on the Appraised Value (defined below) or the Lender Requirements (defined below). **IF SELLER IS NOT IN DEFAULT AND DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY WILL BE NONREFUNDABLE,** except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).

5.3. Credit Information. If an existing loan is not to be released at Closing, this Contract is conditional (for the sole benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be in Seller's sole subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by Seller must be held by Seller in confidence and not released to others except to protect Seller's interest in this transaction. If the Cash at Closing is less than as set forth in § 4.1 of this Contract, Seller has the Right to Terminate under § 25.1, on or before Closing. If Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective discretion, Seller has the Right to Terminate under § 25.1, on or before **Disapproval of Buyer's Credit Information Deadline**.

5.4. Existing Loan Review. If an existing loan is not to be released at Closing, Seller must deliver copies of the loan documents (including note, deed of trust and any modifications) to Buyer by **Existing Loan Deadline**. For the sole benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer has the Right to Terminate under § 25.1, on or before **Existing Loan Termination Deadline**, based on any unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on such deadline. Seller has the Right to Terminate under § 25.1, on or before Closing, in Seller's sole subjective discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4.6.

6. APPRAISAL PROVISIONS.

6.1. Appraisal Definition. An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

6.2. Appraisal Condition. The applicable appraisal provision set forth below applies to the respective loan type set forth in § 4.5.3, or if a cash transaction (i.e. no financing), § 6.2.1 applies.

6.2.1. Conventional/Other. Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal Objection Deadline**, notwithstanding § 8.3 or § 13:

6.2.1.1. Notice to Terminate. Notify Seller in writing, pursuant to § 25.1, that this Contract is terminated; or

6.2.1.2. Appraisal Objection. Deliver to Seller a written objection accompanied by either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the Purchase Price (Lender Verification).

6.2.1.3. Appraisal Resolution. If an Appraisal Objection is received by Seller, on or before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination, i.e., on or before expiration of **Appraisal Resolution Deadline**.

6.3. Lender Property Requirements. If the lender imposes any written requirements, replacements, removals or repairs, including any specified in the Appraisal (Lender Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract terminates on the earlier of three days following Seller's receipt of the Lender Requirements, or Closing, unless prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Requirements; (2) the Lender Requirements have been completed; or (3) the satisfaction of the Lender Requirements is waived in writing by Buyer.

6.4. Cost of Appraisal. Cost of the Appraisal to be obtained after the date of this Contract must be timely paid by ☐ **Buyer** ☐ **Seller**. The cost of the Appraisal may include any and all fees paid to the appraiser, appraisal management company, lender's agent or all three.

7. OWNERS' ASSOCIATION. This Section is applicable if the Property is located within a Common Interest Community and subject to the declaration (Association).

7.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.

7.2. Association Documents to Buyer. Seller is obligated to provide to Buyer the Association Documents (defined below), at Seller's expense, on or before **Association Documents Deadline**. Seller authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents, regardless of who provides such documents.

7.3. Association Documents. Association documents (Association Documents) consist of the following:

7.3.1. All Association declarations, articles of incorporation, bylaws, articles of organization, operating agreements, rules and regulations, party wall agreements and the Association's responsible governance policies adopted under § 38-33.3-209.5, C.R.S.;

7.3.2. Minutes of: (1) the annual owners' or members' meeting and (2) any executive boards' or managers' meetings; such minutes include those provided under the most current annual disclosure required under § 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent minutes, if any (§§ 7.3.1 and 7.3.2, collectively, Governing Documents); and

7.3.3. List of all Association insurance policies as provided in the Association's last Annual Disclosure, including, but not limited to, property, general liability, association director and officer professional liability and fidelity policies. The list must include the company names, policy limits, policy deductibles, additional named insureds and expiration dates of the policies listed (Association Insurance Documents);

7.3.4. A list by unit type of the Association's assessments, including both regular and special assessments as disclosed in the Association's last Annual Disclosure;

7.3.5. The Association's most recent financial documents which consist of: (1) the Association's operating budget for the current fiscal year, (2) the Association's most recent annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the Association's last Annual Disclosure, (3) the results of the Association's most recent

available financial audit or review, (4) list of the fees and charges (regardless of name of title of such fees or charges) that the Association's community association manager or Association will charge in connection with the Closing including, but not limited to, any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record Change Fee), fees to access documents, (5) list of all assessments required to be paid in advance, reserves or working capital due at Closing and (6) reserve study, if any (§§ 7.3.4 and 7.3.5, collectively, Financial Documents);

7.3.6. Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2 (Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common elements or limited common elements of the Association property.

7.4. Conditional on Buyer's Review. Buyer has the right to review the Association Documents. Buyer has the Right to Terminate under § 25.1, on or before **Association Documents Termination Deadline**, based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 25.1 by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the provisions of § 8.6 (Right of First Refusal or Contract Approval).

8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.

8.1. Evidence of Record Title.

[X] **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price, or if this box is checked, [ ] an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing.

[ ] **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.

If neither box in § 8.1.1 or § 8.1.2 is checked, § 8.1.1 applies.

8.1.3. Owner's Extended Coverage (OEC). The Title Commitment [X] **Will** [ ] **Will Not** contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by [ ] **Buyer** [X] **Seller** [ ] **One-Half by Buyer and One-Half by Seller** [ ] **Other**_____. Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.5 (Right to Object to Title, Resolution).

8.1.4. Title Documents. Title Documents consist of the following: (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title Documents).

8.1.5. Copies of Title Documents. Buyer must receive, on or before **Record Title Deadline**, copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the party or parties obligated to pay for the owner's title insurance policy.

8.1.6. Existing Abstracts of Title. Seller must deliver to Buyer copies of any abstracts of title covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.

8.2. Record Title. Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.5 (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object

to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.5 (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

8.3. Off-Record Title. Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights of first refusal and options) not shown by public records, of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2 (Record Title) and § 13 (Transfer of Title)), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.3 (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.5 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.

8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.

A tax certificate from the respective county treasurer listing any special taxing districts that effect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may object, on or before **Record Title Objection Deadline**. If the Tax Certificate shows that the Property is included in a special taxing district and is received by Buyer after the **Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to the Property's inclusion in a special taxing district as unsatisfactory to Buyer.

8.5. Right to Object to Title, Resolution. Buyer's right to object, in Buyer's sole subjective discretion, to any title matters includes those matters set forth in § 8.2 (Record Title), § 8.3 (Off-Record Title), § 8.4 (Special Taxing District) and § 13 (Transfer of Title). If Buyer objects to any title matter, on or before the applicable deadline, Buyer has the following options:

8.5.1. Title Objection, Resolution. If Seller receives Buyer's written notice objecting to any title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2 (Record Title), § 8.3 (Off-Record Title) or § 8.4 (Special Taxing Districts), the Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

8.5.2. Title Objection, Right to Terminate. Buyer may exercise the Right to Terminate under § 25.1, on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole subjective discretion.

8.6. Right of First Refusal or Contract Approval. If there is a right of first refusal on the Property or a right to approve this Contract, Seller must promptly submit this Contract according to the terms and conditions of such right. If the holder of the right of first refusal exercises such right or the holder of a right to approve disapproves this Contract, this Contract will terminate. If the right of first refusal is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or approval of this Contract has not occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.

8.7. Title Advisory. The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property,

including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations, unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property and various laws and governmental regulations concerning land use, development and environmental matters.

8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.

8.7.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.

8.7.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING FACILITIES.

8.7.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.

8.7.5. Title Insurance Exclusions. Matters set forth in this Section and others, may be excepted, excluded from, or not covered by the owner's title insurance policy.

8.8. Consult an Attorney. Buyer is advised to timely consult legal counsel with respect to all such matters as there are strict time limits provided in this Contract (e.g., **Record Title Objection Deadline** and **Off-Record Title Objection Deadline**).

9. NEW ILC, NEW SURVEY.

9.1. New ILC or New Survey. If the box is checked, a: 1) ☐ **New Improvement Location Certificate (New ILC)**; or, 2) [X] **New Survey** in the form of **See Addendum "A" attached hereto**; is required and the following will apply:

9.1.1. Ordering of New ILC or New Survey. [X] **Seller** ☐ **Buyer** will order the New ILC or New Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a date after the date of this Contract.

9.1.2. Payment for New ILC or New Survey. The cost of the New ILC or New Survey will be paid, on or before Closing, by: [X] **Seller** [ ] **Buyer** or:

9.1.3. Delivery of New ILC or New Survey. Buyer, Seller, the issuer of the Title Commitment (or the provider of the opinion of title if an Abstract of Title) and _____ will receive a New ILC or New Survey on or before **New ILC or New Survey Deadline**.

9.1.4. Certification of New ILC or New Survey. The New ILC or New Survey will be certified by the surveyor to all those who are to receive the New ILC or New Survey.

9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection. Buyer may select a New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.

9.3. New ILC or New Survey Objection. Buyer has the right to review and object to the New ILC or New Survey. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**, notwithstanding § 8.3 or § 13:

9.3.1. Notice to Terminate. Notify Seller in writing, pursuant to § 25.1, that this Contract is terminated; or

9.3.2. New ILC or New Survey Objection. Deliver to Seller a written description of any matter that was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.

9.3.3. New ILC or New Survey Resolution. If a **New ILC or New Survey Objection** is received by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the New ILC or New Survey Objection before such termination, i.e., on or before expiration of **New ILC or New Survey Resolution Deadline**.

DISCLOSURE, INSPECTION AND DUE DILIGENCE

10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY AND DUE DILIGENCE.

10.1. Seller's Property Disclosure. On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date of this Contract.

10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition. Seller must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an "**As Is**" condition, "**Where Is**" and "**With All Faults**."

10.3. Inspection. Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections (by one or more third parties, personally or both) of the Property and Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and communication services), systems and components of the Property (e.g., heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer may:

10.3.1. Inspection Objection. On or before the **Inspection Objection Deadline**, deliver to Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct; or

10.3.2. Terminate. On or before the **Inspection Termination Deadline**, notify Seller in writing, pursuant to § 25.1, that this Contract is terminated due to any unsatisfactory condition. **Inspection Termination Deadline will be on the earlier of Inspection Resolution Deadline or the date specified in § 3.1 for Inspection Termination Deadline.**

10.3.3. Inspection Resolution. If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on or before expiration of **Inspection Resolution Deadline**.

10.4. Damage, Liens and Indemnity. Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the termination of this Contract. This § 10.4 does not apply to items performed pursuant to an Inspection Resolution.

10.5. Insurability. Buyer has the right to review and object to the availability, terms and conditions of and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on or before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the Property Insurance, in Buyer's sole subjective discretion.

10.6. Due Diligence.

10.6.1. Due Diligence Documents. If the respective box is checked, Seller agrees to deliver copies of the following documents and information pertaining to the Property (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery Deadline**:

[X] **10.6.1.1.** All contracts relating to the operation, maintenance and management of the Property;

[ ] **10.6.1.2.** Property tax bills for the last _____ years;

[X] **10.6.1.3.** As-built construction plans to the Property and the tenant improvements, including architectural, electrical, mechanical and structural systems; engineering reports; and permanent Certificates of Occupancy, to the extent now available;

[X] **10.6.1.4.** A list of all Inclusions to be conveyed to Buyer;

[X] **10.6.1.5.** Operating statements for the past __5__ years;

[ ] **10.6.1.6.** A rent roll accurate and correct to the date of this Contract;

[X] **10.6.1.7.** All current leases, including any amendments or other occupancy agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing are as follows (Leases):

☐ **10.6.1.8.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;

[X] **10.6.1.9.** All insurance policies pertaining to the Property and copies of any claims which have been made for the past _____ years;

[X] **10.6.1.10.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.3);

[X] **10.6.1.11.** Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;

[X] **10.6.1.12.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of the Property with said Act;

[X] **10.6.1.13.** All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and

☐ **10.6.1.14.** Other documents and information:

10.6.2. Due Diligence Documents Review and Objection. Buyer has the right to review and object to Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

10.6.2.1. Notice to Terminate. Notify Seller in writing, pursuant to § 25.1, that this Contract is terminated; or

10.6.2.2. Due Diligeuce Documents Objection. Deliver to Seller a written description of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

10.6.2.3. Dne Diligence Docnments Resolution. If a Due Diligence Documents Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents Resolntion Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination, i.e., on or before expiration of **Due Diligeuce Docnments Resolution Deadline**.

10.6.3. Zoning. Buyer has the Right to Terminate under § 25.1, on or before **Due Diligence Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

10.6.4. Due Diligence – Environmental, ADA. Buyer has the right to obtain environmental inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable. ☐ **Seller** [X] **Buyer** will order or provide [X] **Phase I Environmental Site Assessment**, ☐ **Phase II Environmental Site Assessment** (compliant with most current version of the applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or ☐ _____, at the expense of ☐ **Seller** [X] **Buyer** (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Termination Deadline** will be extended by **30** _____ days (Extended Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such event, ☐ **Seller** [X] **Buyer** must pay the cost for such Phase II Environmental Site Assessment.

Notwitbstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4, Buyer has the Right to Terminate under § 25.1, on or before **Environmental Inspection Termination Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

Buyer has the Right to Terminate under § 25.1, on or before **ADA Evaluation Termination Deadline**, based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

10.7. Conditional Upon Sale of Property. This Contract is conditional upon the sale and closing of that certain property owned by Buyer and commonly known as **N/A** _____. Buyer has the Right to Terminate under § 25.1 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.

10.8. Source of Potable Water (Residential Land and Residential Improvements Only). [Intentionally Deleted]

10.9. Existing Leases; Modification of Existing Leases; New Leases. Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.

11. ESTOPPEL STATEMENTS.

11.1. Estoppel Statements Conditions. Buyer has the right to review and object to any Estoppel Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on or before **Estoppel Statements Deadline**, statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease stating:

11.1.1. The commencement date of the Lease and scheduled termination date of the Lease;

11.1.2. That said Lease is in full force and effect and that there have been no subsequent modifications or amendments;

11.1.3. The amount of any advance rentals paid, rent concessions given and deposits paid to Seller;

11.1.4. The amount of monthly (or other applicable period) rental paid to Seller;

11.1.5. That there is no default under the terms of said Lease by landlord or occupant; and

11.1.6. That the Lease to which the Estoppel Statement is attached is a true, correct and complete copy of the Lease demising the premises it describes.

11.2. Seller Estoppel Statement. In the event Seller does not receive from all tenants of the Property a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel Statement setting forth the information and documents required §11.1 above and deliver the same to Buyer on or before **Estoppel Statements Deadline.**

11.3. Estoppel Statements Termination. Buyer has the Right to Terminate under § 25.1, on or before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.

CLOSING PROVISIONS

12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.

12.1. Closing Documents and Closing Information. Seller and Buyer will cooperate with the Closing Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing Company, in a timely manner, all required loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller will sign and complete all customary or reasonably-required documents at or before Closing.

12.2. Closing Instructions. Colorado Real Estate Commission's Closing Instructions ☐ **Are** ☐ **Are Not** executed with this Contract.

12.3. Closing. Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as the **Closing Date** or by mutual agreement at an earlier date. The hour and place of Closing will be as designated by **Title Company** _____.

12.4. Disclosure of Settlement Costs. Buyer and Seller acknowledge that costs, quality and extent of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

13. TRANSFER OF TITLE. Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender of any payment due at Closing, Seller, provided another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer, at Closing. However, if the box is checked, the parties agree to use the corresponding deed instead:

☒ general warranty deed ☐ bargain and sale deed ☐ quit claim deed ☐ personal representative's deed ☐ _____ deed.

13.1. Special Warranty Deed and General Warranty Deed Exceptions. If title will be conveyed using a special warranty deed or a general warranty deed, title will be conveyed subject to:

13.1.1. General taxes for the year of Closing,

13.1.2. Distribution utility easements (including cable TV),

13.1.3. Those specifically described rights of third parties not shown by the public records of which Buyer has actual knowledge and which were accepted by Buyer in accordance with § 8.3 (Off-Record Title) and § 9 (New ILC or New Survey),

13.1.4. Inclusion of the Property within any special taxing district,

13.1.5. Any special assessment if the improvements were not installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing and

13.1.6. Other _____.

13.2. Special Warranty Deed. In addition to the requirements of § 13.1, if title will be conveyed by a special warranty deed, Seller will warrant title against all persons claiming by, through or under Seller subject to those specific recorded exceptions, if any, created during Seller's ownership of the Property and described by reference to recorded documents shown as Exceptions in the Title Documents that are accepted by Buyer in accordance with § 8.2 (Record Title) and described in the deed by reference to the specific recording information for each recorded document.

13.3. General Warranty Deed. In addition to the requirements of § 13.1, if title will be conveyed by a general warranty deed, Seller will warrant the title subject to those specific recorded exceptions described by reference to recorded documents shown as Exceptions in the Title Documents that are accepted by Buyer in accordance with § 8.2 (Record Title) and described in the deed by reference to the specific recording information for each recorded document.

14. PAYMENT OF LIENS AND ENCUMBRANCES. Unless agreed to by Buyer in writing, any amounts owed on any liens or encumbrances securing a monetary sum, including, but not limited to, any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or from any other source.

15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.

15.1. Closing Costs. Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required to be paid at Closing, except as otherwise provided herein.

15.2. Closing Services Fee. The fee for real estate closing services must be paid at Closing by ☐ **Buyer** ☐ **Seller** ☒ **One-Half by Buyer and One-Half by Seller** ☐ **Other** _____.

15.3. Status Letter and Record Change Fees. At least fourteen days prior to **Closing Date**, Seller agrees to promptly request the Association to deliver to Buyer a current Status Letter. Any fees incident to the issuance of Association's Status Letter must be paid by ☒ **None** ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller**. Any Record Change Fee must be paid by ☒ **None** ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller**.

15.4. Local Transfer Tax. ☐ **The Local Transfer Tax** of _____% of the Purchase Price must be paid at Closing by ☒ **None** ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller**.

15.5. Private Transfer Fee. Private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at Closing by ☒ **None** ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller**. The Private Transfer fee, whether one or more, is for the following association(s): _____ in the total amount of ____% of the Purchase Price or $_____.

15.6. Water Transfer Fees. The Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed $_____ for:

☐ Water Stock/Certificates ☐ Water District

☐ Augmentation Membership ☐ Small Domestic Water Company ☐ _____

and must be paid at Closing by ☒ **None** ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller**

15.7. Sales and Use Tax. Any sales and use tax that may accrue because of this transaction must be paid when due by ☒ **None** ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller**.

15.8. FIRPTA and Colorado Withholding.

15.8.1. FIRPTA. The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller ☐ **IS** a foreign person for purposes of U.S. income taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

15.8.2. Colorado Withholding. The Colorado Department of Revenue may require a portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

16. PRORATIONS AND ASSOCIATION ASSESSMENTS. The following will be prorated to the **Closing Date**, except as otherwise provided:

16.1. Taxes. Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on ☒ **Taxes for the Calendar Year Immediately Preceding Closing** ☐ **Most Recent Mill Levy and**

Most Recent Assessed Valuation, adjusted by any applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or ☐ **Other** _____.

16.2. Rents. Rents based on ☐ **Rents Actually Received** ☐ **Accrued**. At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful deductions and notify all tenants in writing of such transfer and of the transferee's name and address. Seller must assign to Buyer all Leases in effect at Closing and Buyer must assume Seller's obligations under such Leases.

16.3. Association Assessments. Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of ☐ **Buyer** ☐ **Seller**. Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller. Seller represents there are no unpaid regular or special assessments against the Property except the current regular assessments and _____. Association Assessments are subject to change as provided in the Governing Documents.

16.4. Other Prorations. Water and sewer charges, propane, interest on continuing loan and **All Utilities**.

16.5. Final Settlement. Unless otherwise agreed in writing, these prorations are final.

17. POSSESSION. Possession of the Property will be delivered to Buyer on **Possession Date** at **Possession Time**, subject to the Leases as set forth in § 10.6.1.7.

If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer for payment of $_____ per day (or any part of a day notwithstanding § 18.1) from **Possession Date** and **Possession Time** until possession is delivered.

GENERAL PROVISIONS

18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.

18.1. Day. As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings as applicable).

18.2. Computation of Period of Days, Deadline. In computing a period of days (e.g., three days after MEC), when the ending date is not specified, the first day is excluded and the last day is included. If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline ☒ **Will** ☐ **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND WALK-THROUGH. Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

19.1. Causes of Loss, Insurance. In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 25.1, on or before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

19.2. Damage, Inclusions and Services. Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 25.1, on or before

Closing Date, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing.

19.3. Condemnation. In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 25.1, on or before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions but such credit will not include relocation benefits or expenses, or exceed the Purchase Price.

19.4. Walk-Through and Verification of Condition. Buyer, upon reasonable notice, has the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

20. RECOMMENDATION OF LEGAL AND TAX COUNSEL. By signing this Contract, Buyer and Seller acknowledge that the respective broker has advised that this Contract has important legal consequences and has recommended the examination of title and consultation with legal and tax or other counsel before signing this Contract.

21. TIME OF ESSENCE, DEFAULT AND REMEDIES. Time is of the essence for all dates and deadlines in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party has the following remedies:

21.1. If Buyer is in Default:

☐ **21.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty and the Parties agree the amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force and effect and Seller has the right to specific performance, or damages, or both.

21.1.2. Liquidated Damages, Applicable. This § 21.1.2 applies <u>unless the box in § 21.1.1. is checked</u>. Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4, 22, 23 and 24), said payment of Earnest Money is SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

21.2. If Seller is in Default: Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be proper. Alternatively, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance, or damages, or both.

22. LEGAL FEES, COST AND EXPENSES. Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

23. MEDIATION. If a dispute arises relating to this Contract (whether prior to or after Closing) and is not resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that party's last known address (physical or electronic as provided in § 27). Nothing in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This Section will not alter any date in this Contract, unless otherwise agreed.

24. EARNEST MONEY DISPUTE. Except as otherwise provided herein, Earnest Money Holder must release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpled the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order

of the Court. The parties reaffirm the obligation of § 23 (Mediation). This Section will survive cancellation or termination of this Contract.

25. TERMINATION.

25.1. Right to Terminate. If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to Terminate under such provision.

25.2. Effect of Termination. In the event this Contract is terminated, all Earnest Money received hereunder will be returned to Buyer and the parties are relieved of all obligations hereunder, subject to §§ 10.4, 22, 23 and 24.

26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS. This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a party receives the predecessor's benefits and obligations of this Contract.

27. NOTICE, DELIVERY AND CHOICE OF LAW.

27.1. Physical Delivery and Notice. Any document, or notice to Buyer or Seller must be in writing, except as provided in § 27.2 and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

27.2. Electronic Notice. As an alternative to physical delivery, any notice, may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or **None**.

27.3. Electronic Delivery. Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

27.4. Choice of Law. This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

28. NOTICE OF ACCEPTANCE, COUNTERPARTS. This proposal will expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 27 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such copies taken together are deemed to be a full and complete contract between the parties.

29. GOOD FAITH. Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations**; **Title Insurance, Record Title and Off-Record Title**; **New ILC, New Survey;** and **Property Disclosure, Inspection, Indemnity, Insurability and Due Diligence**.

ADDITIONAL PROVISIONS AND ATTACHMENTS

30. ADDITIONAL PROVISIONS. (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

See Addendum "A" attached hereto and made a part hereof.

822 **31. OTHER DOCUMENTS.**
823 **31.1.** The following documents **are a part** of this Contract:
824 Addendum "A"
825
826
827 **31.2.** The following documents have been provided but are **not** a part of this Contract:
828 N/A
829
830

831 **SIGNATURES**

832

Buyer's Name: **Roaring Fork Transportation Authority**

Buyer's Signature Date

Address: **2307 Wulfsohn Road**
Glenwood Springs, CO 81601
Phone No.: **970-384-4981**
Fax No.:
Email Address: **dblankenship@rfta.com**

Buyer's Name:

Buyer's Signature Date

Address:
Phone No.:
Fax No.:
Email Address:

833 **[NOTE: If this offer is being countered or rejected, do not sign this document.**

Seller's Name: **City of Glenwood Springs**

Seller's Signature Date

Address: **101 West 8th Street**
Glenwood Springs, CO 81601
Phone No.: **970-384-6400**
Fax No.:
Email Address:

Seller's Name:

Seller's Signature Date

Address:
Phone No.:
Fax No.:
Email Address:

834

835 **END OF CONTRACT TO BUY AND SELL REAL ESTATE**

---

32. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.
(To be completed by Broker working with Buyer)

Broker ☐ **Does** ☐ **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation requested under § 23.

Broker is working with Buyer as a ☐ **Buyer's Agent** ☐ **Transaction-Broker** in this transaction. ☐ This is a **Change of Status**.

☐ **Customer.** Broker has no brokerage relationship with Buyer. See § 33 for Broker's brokerage relationship with Seller.

Brokerage Firm's compensation or commission is to be paid by ☐ **Listing Brokerage Firm** ☐ **Buyer** ☐ **Other** _____.

Brokerage Firm's Name: _____
Brokerage Firm's License #: _____
Broker's Name: _____
Broker's License #: _____

_____
Broker's Signature Date

Address: _____

Phone No.: _____
Fax No.: _____
Email Address: _____

33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.
(To be completed by Broker working with Seller)

Broker ☐ **Does** ☐ **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation requested under § 23.

Broker is working with Seller as a ☐ **Seller's Agent** ☐ **Transaction-Broker** in this transaction. ☐ This is a **Change of Status**.

☐ **Customer.** Broker has no brokerage relationship with Seller. See § 32 for Broker's brokerage relationship with Buyer.

Brokerage Firm's compensation or commission is to be paid by ☐ **Seller** ☐ **Buyer** ☐ **Other** _____.

Brokerage Firm's Name: _____
Brokerage Firm's License #: _____
Broker's Name: _____
Broker's License #: _____

_____
Broker's Signature Date

Address: _____

Phone No.: _____
Fax No.: _____
Email Address: _____

836

—**DRAFT**

02/06/2020

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF GLENWOOD SPRINGS AND THE ROARING FORK TRANSPORTATION AUTHORITY FOR THE PURCHASE OF PROPERTY AND THE PEFORMANCE OF TRANSPORTATION PROJECTS

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into effective as of the ___ day of _____ 2020, regardless of the day actually signed, by and between the CITY OF GLENWOOD SPRINGS, COLORADO (the "City") and the ROARING FORK TRANSPORTATION AUTHORITY ("RFTA"), together "the Parties".

WHEREAS, the City has offered to sell and RFTA desires to purchase that real property, commonly known as the Glenwood Springs Municipal Operations Center (the "GMOC") and access road to the GMOC, described in that Contract to Buy and Sell Real Estate and the Addendum thereto (collectively the "Contract"), a copy of which Contract is attached hereto and made a part hereof as Exhibit "A"; and

WHEREAS, upon the successful closing of the Contract RFTA has agreed to perform the following

- Provide $200,000 cash (an amount identified in RFTA's approved Destination 2040 Plan) for design and/or construction of the Elementary School and High School connections to the River Walk Trail and the crossing of the RFTA Rio Grande railroad corridor, and to make other trail and trail connection improvements along the Rio Grande Railroad Corridor within Glenwood Springs.

- Contribute $100,000 more than Glenwood Springs contributes for the Glenwood Springs/RFTA Corridor Study, reducing Glenwood Springs' estimated share to $241,000.

- Pay the expense for the demolition of the GMOC building, currently estimated to cost approximately $695,000.

NOW, THEREFORE, in consideration of the mutual covenants and agreements identified below, the Parties agree to this IGA as follows:

1. **Incorporation of Recitals.** The forgoing recitals are incorporated herein as if set forth in full.

2. **Purchase of GMOC by RFTA**.

a. Simultaneous with the execution of this Agreement the City and RFTA shall also execute the Contract attached hereto as Exhibit "A" for a purchase price of One Million Two Hundred and Sixty Thousand Dollars ($1,260,000) as provided therein, and shall proceed to close the Contract in accordance with its terms. The Contract provides

for the approval of the conveyance by the affirmative vote of a majority of the qualified electors of the City at an election to be held on April 14, 2020.

b. If the City wants to continue to use the GMOC on a temporary basis after closing of the Contract, the City and RFTA shall enter into a Use Agreement in the form attached as Exhibit "B to the Contract,"

c. Transportation Projects. Following the closing of the Contract as set forth herein, RFTA shall proceed with the following projects that are of mutual interest to the City and RFTA:

- Provide $200,000 cash (an amount identified in RFTA's approved Destination 2040 Plan) for design and/or construction of the Elementary School and High School connections the River Walk Trail and the crossing of the RFTA Rio Grande railroad corridor, and to make other trail and trail connection improvements along the Rio Grande Railroad Corridor within Glenwood Springs.

- Contribute $100,000 more than Glenwood Springs contributes for the Glenwood Springs/RFTA Corridor Study, reducing Glenwood Springs' estimated share to $241,000.

- At the sole cost and expense of RFTA demolish the GMOC building, currently estimated to cost approximately $695,000.

3. **Public Record.** The Parties shall cause all documents necessary to fulfill the purposes of this IGA to be recorded in the Office of the Garfield County Clerk and Recorder.

4. **Preservation of Purpose and Survival.** No portion of this IGA shall be read or understood to alter, amend, or terminate the purpose and intent of the IGA or the rights and responsibilities of the Parties created therein. Any conflict between the provisions of this IGA shall be resolved by the Parties in a manner agreed to be the least disruptive to the preservation of the IGA's purpose.

5. **Breach and Notice.** If either Party fails to perform its respective obligations under this Agreement, the non-breaching Party shall provide thirty (30) days' notification of such failure to the breaching Party's representative as provided in paragraph 17. If the breaching Party fails to correct or remedy the breach, the non-breaching Party may proceed in law or equity to seek injunctive relief, specific performance, and/or damages incurred as a result of the Breach. With regard to the Contract attached as Exhibit "A", however, the terms of the Contract shall control.

6. **Good Faith.** There is an obligation of good faith on the part of the Parties, including the obligation to make timely communication of information that may reasonably be believed to be material to the other Party.

7. **No Waiver of Governmental Immunity Act.** Nothing herein shall be deemed a waiver of the Colorado Governmental Immunity Act for or by either Party. C.R.S. § 24-10-101 *et seq.*

8. **No Joint Venture.** Nothing in this Agreement shall be construed to create a joint venture, partnership, employer/employee or other relationship between the Parties other than independent contracting parties. Except as permitted under the remedies provisions hereunder, neither Party shall have the express or implied right to act for, on behalf of, or in the name of the other Party.

9. **No Third-Party Beneficiary.** No third party may enforce or rely upon this IGA.

10. **Term of Agreement.** This IGA shall become effective upon signature of the last Party to sign and will terminate upon completion of the Transportation Projects described in Paragraph 2(c) except as otherwise provided for herein. All rights concerning remedies, fees and costs shall survive termination of this IGA.

11. **Amendment and Assignment.** This IGA may be amended by the Parties solely through a written agreement signed by both Parties. This IGA may not be assigned by either Party.

12. **Counterparts.** This IGA may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed the same instrument. Facsimile or photographic signatures of either Party to this IGA or subsequent modifications thereto, shall be effective for all purposes.

13. **Governing Law, Venue and Survival.** The laws of the State of Colorado to the extent not preempted by federal law shall govern the validity, performance and enforcement of this IGA. Should either Party institute legal action for enforcement of this IGA, venue of such action shall be in the United States District Court for the District of Colorado, if the court has jurisdiction; otherwise, any such action shall be filed in Garfield County, Colorado.

14. **Whole Agreement.** This IGA sets forth the whole agreement of the Parties. No representations, either verbal or written, shall be considered binding on either Party to the extent not set forth herein.

15. **Section Headings.** The section headings in this IGA are inserted only for the purpose of convenient reference and are in no way to define, limit or prescribe the scope or intent of this Agreement or any part thereof.

16. **Authority.** Each Party signing this IGA represents and warrants that the individual is fully authorized to enter into and execute this IGA and to bind the Party it represents to the terms and conditions thereof.

17. **Notice and Representatives.** All notices required under this IGA shall be transmitted in writing and shall be deemed duly given when hand-delivered or sent by certified mail, return receipt requested and postage prepaid, or by electronic communication, addressed to the designated representative(s) as follows:

To City: City of Glenwood Springs
Attn.: City Manager
101 West 8th Street
Glenwood Springs, CO 81601

With copy to: City of Glenwood Springs.
Attn.: City Attorney
101 West 8th Street
Glenwood Springs, CO 81601

To RFTA: Roaring Fork Transportation Authority
Attn.: Chief Executive Officer
2307 Wulfsohn Road
Glenwood Springs, CO 81601

With copy to: Roaring Fork Transportation Authority
RFTA General Counsel
2307 Wulfsohn Road
Glenwood Springs, CO 81601

18. **Change of Representatives.** Either Party may, in its sole discretion, change its individual designated representative and the address to which future notices shall be sent by providing written notice to the other Party.

19. **Severability.** Should any provision of this IGA be found to be in conflict with any law of the United States or the State of Colorado or to otherwise be unenforceable, the remaining provisions shall be deemed severable and the validity of such shall not be affected provided that the remaining provisions can be construed in substance to constitute the agreement which the parties intended to enter into under this IGA.

IN WITNESS WHEREOF, the City and RFTA have executed duplicate originals of this Agreement.

CITY OF GLENWOOD SPRINGS, COLORADO

ATTEST:

_____
Catherine Mythen Fletcher, City Clerk

By: _____
Jonathan Godes, Mayor

Date: _____

ROARING FORK TRANSPORTATION AUTHORITY

ATTEST:

_____
Secretary

By: _____
Art Riddle, Chair

Date: _____

First Amended Minor Subdivision Plat of

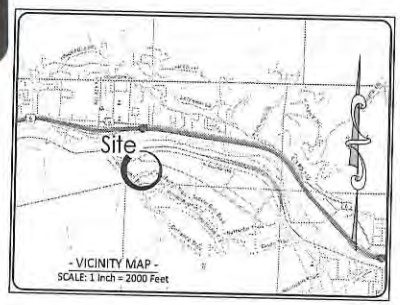
Glenwood Springs Municipal Operations Center

A Parcel of Land Situated in Sections 5, 6, and 8, T. 6 S., R. 89 W. of the 6th P.M.

City of Glenwood Springs, Garfield County, Colorado

LEGEND

- Found Monument as Described
- Found Monument as Described
- Found Monument as Described
- Electric Transformer
- Light Pole
- Utility Pole
- Telephone Pad
- Water valve
- Fire Hydrant
- Water Shut-off
- Water Spigot
- Well
- PVC pipe
- Irrigation Cont. Valve
- Sanitary Sewer Manhole
- Cleanout
- Gas Meter
- CATV Pedestal
- Sign - Single Pole
- Overhead Electric Line
- Fenceline
- Overhead Telephone Line
- Rock wall
- Building Envelope Line
- Concrete
- Stone
- Gravel
- Deck
- Flagstone
- Asphalt paving



PROPERTY DESCRIPTION:

GLENWOOD SPRINGS MUNICIPAL OPERATIONS CENTER MINOR SUBDIVISION RECORDED NOVEMBER 07, 2002 UNDER RECEPTION NO. 614253

NOTES:

1. Basis of Bearings: Bearings shown hereon are based on an assumed bearing of N90°00'00"W along the southerly line of Lot D, Glenwood Springs Municipal Operations Center Minor Subdivision, between a 5/8" Diameter Rebar found at a southerly angle point of said Lot D, and a 5/8" Diameter Rebar and Green Plastic Cap Marked LS 38417 at the southwest corner of said Lot D, as shown hereon.
2. This map has been prepared pursuant to client request for an Amended Minor Subdivision Plat.
3. Date of field survey : October 31, 2019 & November 22, 2019
4. Units of linear measurements are displayed in US Survey Feet.
5. SGM will not be responsible for any changes made to this document after it leaves our possession. Any copy, facsimile, etc., of this document must be compared to the original signed, sealed and dated document to insure the accuracy of the information shown on any such copy, and to insure that no such changes have been made.
6. Any subsurface utilities not shown, were not marked by appropriate utility companies at the time of this survey and therefore may not be shown hereon. Underground utilities locates have been marked by The City of Glenwood Springs. Only paint marks and utility pin flags on the ground surface were surveyed by SGM as part of this survey. Client/contractor must contact specific utility companies to verify both the location and depth of respective utilities. Additional surveying work may be required to show any such subsurface utility locations on this drawing. SGM will not be responsible for protection of subsurface utilities.
7. Property descriptions shown hereon are based on Glenwood Springs Municipal Operations Center Minor Subdivision recorded November 07, 2002 under Reception No. 614253.
8. Fences shown hereon have been shown for general reference and do not necessarily depict limits of ownership.
9. The property shown hereon is subject to all easements, rights-of-way, building setbacks or other restrictions of record, as such items may affect this property. This survey does not represent a title search by this surveyor to determine ownership or to discover easements or other encumbrances of record. All information pertaining to ownership, easement and other encumbrances of record has been taken from the title insurance commitment issued by Land Title Guarantee Company, Commitment No. ABS63014212, having an effective date of August 27, 2020.

   Every attempt has been made to show all easements, rights-of-way, etc. referred to in the Schedule B2 Exceptions recited in said title insurance policy. Some such items may not be shown (i.e. Items 8-11) if they are standard title commitment exceptions, or if not sufficiently described in recorded documents to be shown graphically, or if they are situated on adjacent properties, or if they affect the property in general, etc.

- LINE TABLE -

LINE #	BEARING	DISTANCE
L1	N02°37'09"E	137.01'
L2	N62°28'35"E	13.21'
L3	N81°33'06"E	51.36'
L4	N62°28'35"E	117.28'
L5	S37°37'22"W	53.33'
L6	S88°35'22"W	25.04'
L7	S06°34'16"W	60.93'
L8	N89°27'19"W	61.43'
L9	S79°25'02"W	104.84'
L10	S57°26'07"W	363.59'
L11	N30°38'55"W	265.79'
L12	N23°56'20"E	110.36'
L13	N57°26'02"E	250.08'

- CURVE TABLE -

CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	588.98'	880.00'	37°49'37"	S72°06'20"E	578.49'
C2	122.29'	102.00'	68°40'40"	S63°54'37"E	115.07'
C3	121.28'	1250.00'	5°35'53"	S33°43'37"E	121.23'
C4	349.50'	1250.00'	15°53'34"	S44°25'51"E	348.38'
C5	82.30'	1250.00'	3°44'33"	S56°16'05"E	82.29'
C6	25.60'	132.00'	11°08'39"	S84°59'22"W	25.56'
C7	41.47'	108.00'	21°59'55"	S88°26'04"W	41.21'

CERTIFICATE OF DEDICATION AND OWNERSHIP

Know all men by these presents that the City of Glenwood Springs, being sole owners in fee simple of all that real property described as follows:

LOT A, GLENWOOD SPRINGS MUNICIPAL OPERATIONS CENTER MINOR SUBDIVISION RECORDED NOVEMBER 07, 2002 UNDER RECEPTION NO. 614253, and containing 29.974 acres, more or less;

Have by these presents laid out, platted and subdivided the same into lots and blocks as shown hereon and designate the same as First Amended Minor Subdivision Plat of Glenwood Spring Municipal Operations Center in the City of Glenwood Springs, County of Garfield, Colorado; and do hereby grant to the City of Glenwood Springs, County of Garfield, Colorado, for public use the streets shown hereon, including avenues, drives, courts, places and alleys, the public lands shown hereon for their indicated public use, and the utility and drainage easements shown hereon for utility and drainage purposes only; and so further state that this subdivision shall be subject to the protective covenants filed and recorded for this subdivision in the office of the Clerk and Recorder of Garfield County, Colorado as Reception No. _____ and subject to the Subdivision Agreement filed and recorded for this subdivision in the office of the Clerk and Recorder of Garfield County, Colorado as Reception No. _____

EXECUTED this _____day of _____ A.D. 20___

Owners _____

STATE OF COLORADO

SS.

COUNTY OF GARFIELD

The foregoing dedication was acknowledged before me this _____day of _____ A.D. 20___ by _____

My commission expires _____

WITNESS MY HAND AND SEAL.

_____

Notary Public

COMMUNITY DEVELOPMENT DIRECTOR CERTIFICATE:

This plat was approved by the City of Glenwood Springs Director of Community Development this _____day of _____ A.D. 20___

_____

Director

SURVEYOR'S CERTIFICATE:

I, Joshua L. Wilson, do hereby certify that I am a registered land surveyor licensed under the laws of the State of Colorado, that this plat is a true, correct and complete plat of the First Amended Minor Subdivision Plat of Glenwood Spring Municipal Operations Center, as laid out, platted, dedicated and shown hereon, that such plat was made from an accurate survey of said property by me and under my supervision and correctly shows the location and dimensions of the lots, easements and streets of said subdivision as the same are staked upon the ground in compliance with the City of Glenwood Springs regulations governing the subdivision of land.

In witness whereof I have set my hand and seal this _____ day of _____ A.D. 20___

_____

Registered Land Surveyor

CLERK AND RECORDER'S CERTIFICATE

This plat was filed for record in the office of the Clerk and Recorder of Garfield County, at _____ o'clock ___M on the _____day of _____ 20___ as Reception No. _____

_____

Clerk and Recorder

BY _____

Deputy

- PRELIMINARY - FOR REVIEW ONLY

Graphic Scale

In U.S. Feet: 1" = 100'

SGM
118 West Sixth Street, Suite 200
Glenwood Springs, CO 81601
970.945.1004 www.sgminc.com

Glenwood Spring Municipal Operations Center
Glenwood Springs, Colorado

Date	By	Revision

Job No. 2019-468.001
Drawn by: JJ
Date:
Approved: JWJ PLS JJ
File: G:\SVDC_Amdpl

Boundary & Access Easement

Title: First Amended Minor Subdivision Plat

Sheet No. 1

Blumberg No. 5119

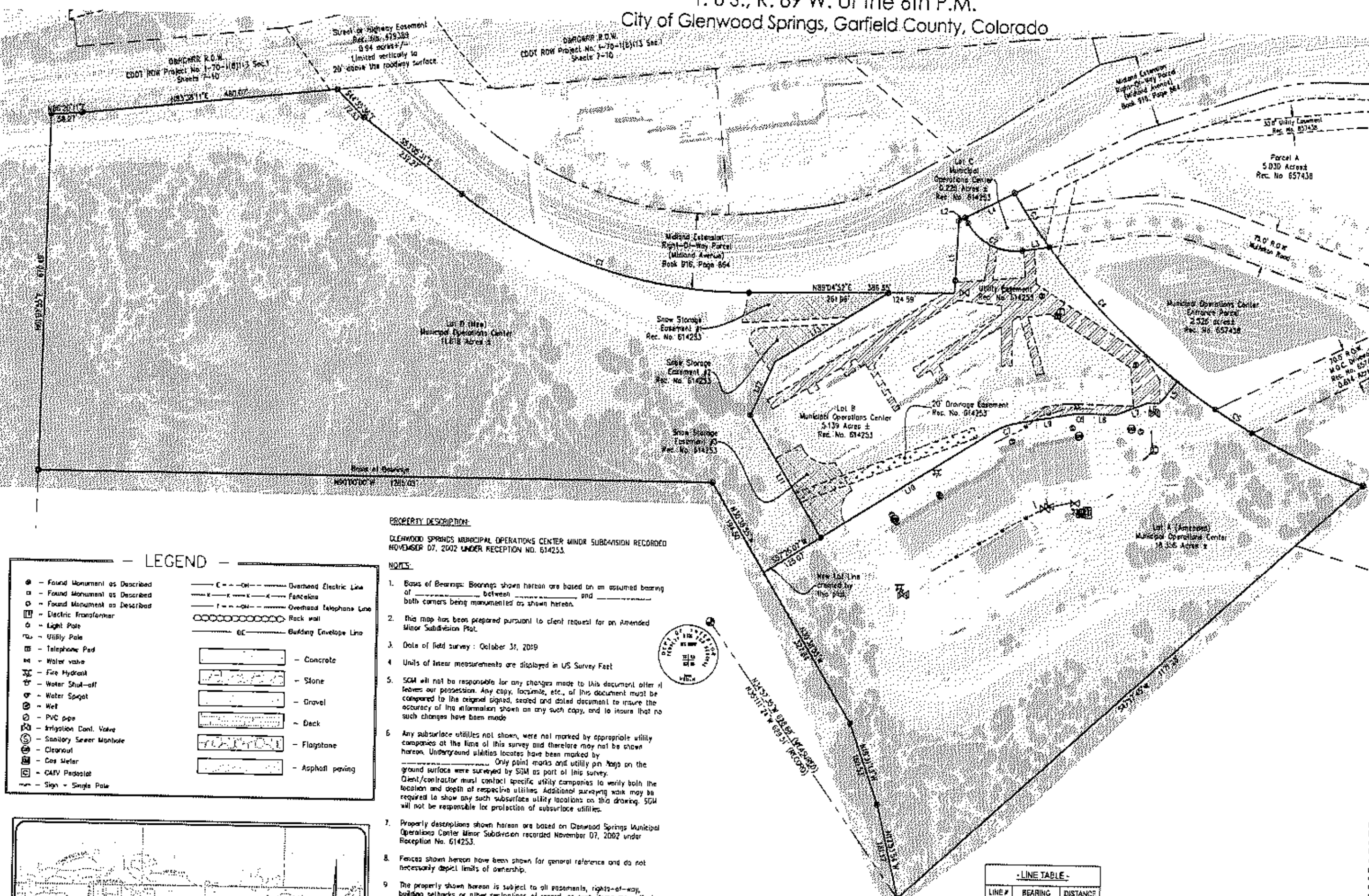
EXHIBIT 1.

First Amended Minor Subdivision Plat of

Glenwood Springs Municipal Operations Center

A Parcel of Land Situated in Sections 5, 6, and 8, T. 6 S., R. 89 W. of the 6th P.M.

City of Glenwood Springs, Garfield County, Colorado



PROPERTY DESCRIPTION:

GLENWOOD SPRINGS MUNICIPAL OPERATIONS CENTER MINOR SUBDIVISION RECORDED NOVEMBER 07, 2002 UNDER RECEPTION NO. 614253.

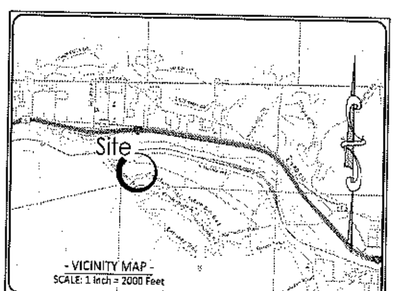
NOTES:

1. Basis of Bearings: Bearings shown hereon are based on an assumed bearing of ____________ between ____________ and ____________ both corners being monumented as shown hereon.
2. This map has been prepared pursuant to client request for an Amended Minor Subdivision Plat.
3. Date of field survey : October 31, 2019
4. Units of linear measurements are displayed in US Survey Feet
5. SGM will not be responsible for any changes made to this document after it leaves our possession. Any copy, facsimile, etc., of this document must be compared to the original signed, sealed and dated document to insure the accuracy of the information shown on any such copy, and to insure that no such changes have been made
6. Any subsurface utilities not shown, were not marked by appropriate utility companies at the time of this survey and therefore may not be shown hereon. Underground utilities locates have been marked by ____________. Only point marks and utility pin flags on the ground surface were surveyed by SGM as part of this survey. Client/contractor must contact specific utility companies to verify both the location and depth of respective utilities. Additional surveying work may be required to show any such subsurface utility locations on this drawing. SGM will not be responsible for protection of subsurface utilities.
7. Property descriptions shown hereon are based on Glenwood Springs Municipal Operations Center Minor Subdivision recorded November 07, 2002 under Reception No. 614253.
8. Fences shown hereon have been shown for general reference and do not necessarily depict limits of ownership.
9. The property shown hereon is subject to all easements, rights-of-way, building setbacks or other restrictions of record, as such items may affect this property. This survey does not represent a title search by this surveyor to determine ownership or to discover easements or other encumbrances of record. All information pertaining to ownership, easement and other encumbrances of record has been taken from the title insurance commitment issued by Land Title Guarantee Company, Commitment No. ABS63014212, having an effective date of August 27, 2020.

   Every attempt has been made to show all easements, rights-of-way, etc. referred to in the Schedule B2 Exceptions recited in said title insurance policy. Some such items may not be shown (i.e. items 8-11) if they are standard title commitment exceptions, or if not sufficiently described in recorded documents to be shown graphically, or if they are situated on adjacent properties, or if they affect the property in general, etc. in regards to other such items.

— LEGEND —

- Found Monument as Described
- Found Monument as Described
- Found Monument as Described
- Electric Transformer
- Light Pole
- Utility Pole
- Telephone Pad
- Water valve
- Fire Hydrant
- Water Shut-off
- Water Spigot
- Well
- PVC pipe
- Irrigation Cont. Valve
- Sanitary Sewer Manhole
- Cleanout
- Gas Meter
- CATV Pedestal
- Sign - Single Pole
- Overhead Electric Line
- Fenceline
- Overhead Telephone Line
- Rock wall
- Building Envelope Line
- Concrete
- Stone
- Gravel
- Deck
- Flagstone
- Asphalt paving



- VICINITY MAP -
SCALE: 1 Inch = 2000 Feet

- LINE TABLE -

LINE #	BEARING	DISTANCE
L1	N02°31'09"E	137.01'
L2	N62°28'35"E	13.21'
L3	N81°33'08"E	51.38'
L4	N02°28'33"E	117.28'
L5	S37°37'22"W	53.33'
L6	S88°35'22"W	25.04'
L7	S68°34'16"W	60.95'
L8	N89°27'19"W	61.43'
L9	S79°26'02"W	104.84'
L10	S57°26'07"W	383.50'
L11	N30°38'55"W	265.78'
L12	N23°56'20"E	110.36'
L13	N57°26'02"E	250.08'

- CURVE TABLE -

CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	580.98'	880.00'	37°49'37"	S72°00'20"E	570.49'
C2	122.26'	102.00'	68°40'40"	S63°54'57"E	115.07'
C3	121.28'	1260.00'	5°30'53"	S33°43'37"E	121.23'
C4	349.50'	1280.00'	15°53'34"	S44°25'51"E	348.38'
C5	82.35'	1260.00'	3°44'35"	S58°16'05"E	82.29'
C6	25.60'	132.00'	11°06'39"	S84°50'22"W	25.56'
C7	41.47'	108.00'	21°59'55"	S68°25'04"W	41.21'

CERTIFICATE OF DEDICATION AND OWNERSHIP

Know all men by these presents that the City of Glenwood Springs, being sole owners in fee simple of all that real property described as follows:

LOT A, GLENWOOD SPRINGS MUNICIPAL OPERATIONS CENTER MINOR SUBDIVISION RECORDED NOVEMBER 07, 2002 UNDER RECEPTION NO. 614253, and containing 29.974 acres, more or less;

Have by these presents laid out, platted and subdivided the same into lots and blocks as shown hereon and designate the same as First Amended Minor Subdivision Plat of Glenwood Spring Municipal Operations Center in the City of Glenwood Springs, County of Garfield, Colorado; and do hereby grant to the City of Glenwood Springs, County of Garfield, Colorado, for public use the streets shown hereon, including avenues, drives, courts, places and alleys, the public lands shown hereon for their indicated public use, and the utility and drainage easements shown hereon for utility and drainage purposes only, and do further state that this subdivision shall be subject to the protective covenants filed and recorded for this subdivision in the office of the Clerk and Recorder of Garfield County, Colorado as Reception No. ____________ and subject to the Subdivision Agreement filed and recorded for this subdivision in the office of the Clerk and Recorder of Garfield County, Colorado as Reception No. ____________

EXECUTED the _____ day of __________ A.D. 20___
Owners ____________________

STATE OF COLORADO
SS.
COUNTY OF GARFIELD

The foregoing dedication was acknowledged before me this _____ day of __________ A.D. 20___ by ____________

My commission expires ____________
WITNESS MY HAND AND SEAL

____
Notary Public

COMMUNITY DEVELOPMENT DIRECTOR CERTIFICATE:

This plat was approved by the City of Glenwood Springs Director of Community Development this _____ day of __________ A.D. 20___

____
Director

SURVEYOR'S CERTIFICATE:

I, Joshua C. Wilson, do hereby certify that I am a registered land surveyor licensed under the laws of the State of Colorado, that this plat is a true, correct and complete plat of the First Amended Minor Subdivision Plat of Glenwood Spring Municipal Operations Center, as laid out, platted, dedicated and shown hereon, that such plat was made from an accurate survey of said property by me and under my supervision and correctly shows the location and dimensions of the lots, easements and streets of said subdivision as the same are staked upon the ground in compliance with the City of Glenwood Springs regulations governing the subdivision of land.

In witness whereof I have set my hand and seal this _____ day of _____ A.D. 20___

____
Registered Land Surveyor

- PRELIMINARY - FOR REVIEW ONLY

CLERK AND RECORDER'S CERTIFICATE:

This plat was filed for record in the office of the Clerk and Recorder of Garfield County at _____ o'clock __.M on the _____ day of _______ 20___ as Reception No. ____________

____
Clerk and Recorder

BY ____________
Deputy

Graphic Scale
In U.S. Feet : 1" = 100'

SGM
118 West Sixth Street, Suite 200
Glenwood Springs, CO 81601
970.945.1004 www.sgm-inc.com

Glenwood Spring Municipal Operations Center
Glenwood Springs, Colorado

Boundary & Access Easement

Title: First Amended Minor Subdivision Plat

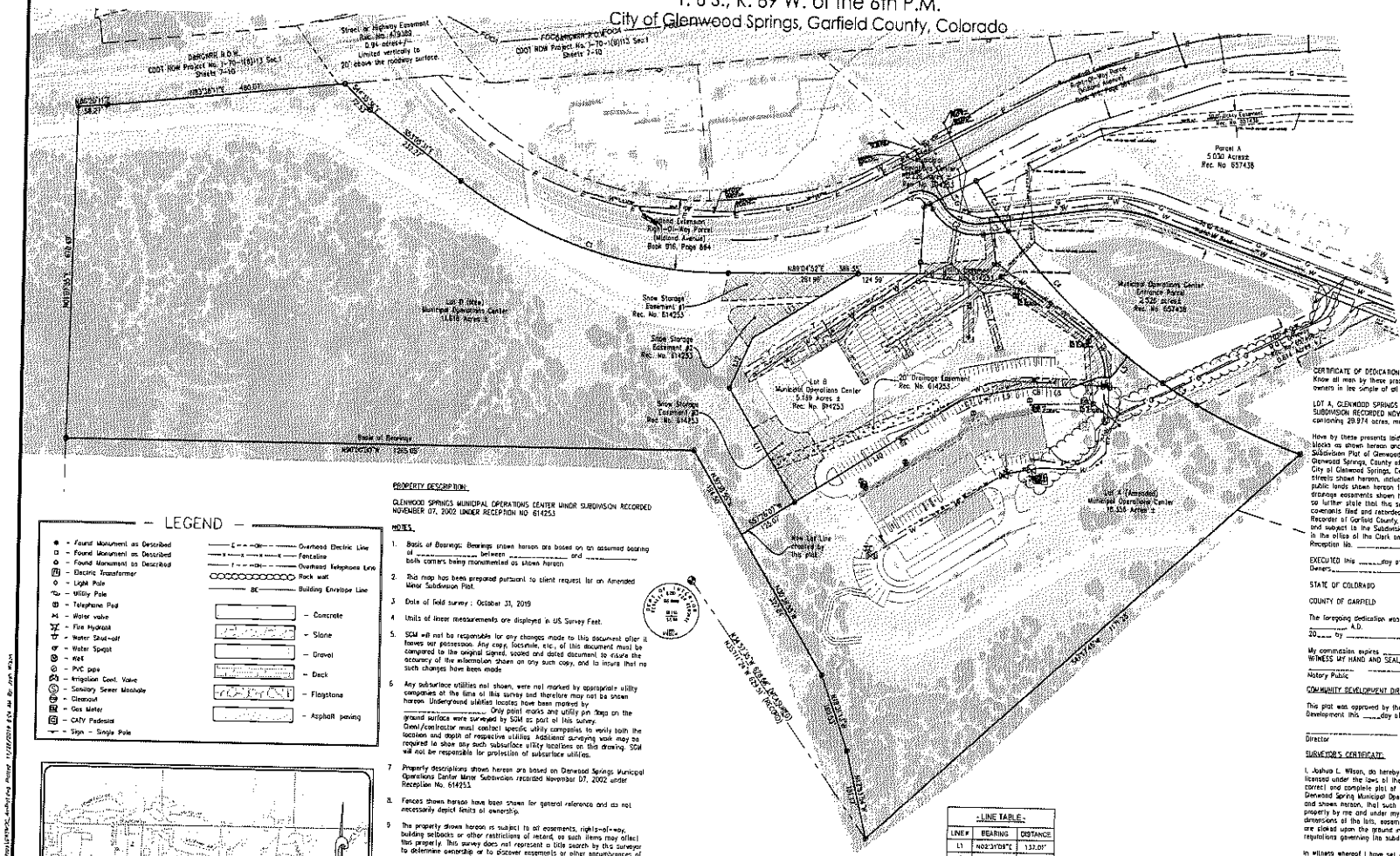
Sheet No. 1 of 2

First Amended Minor Subdivision Plat of

Glenwood Springs Municipal Operations Center

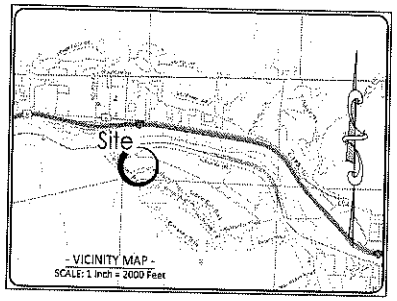
A Parcel of Land Situated in Sections 5, 6, and 8, T. 6 S., R. 89 W. of the 6th P.M.

City of Glenwood Springs, Garfield County, Colorado



LEGEND

- Found Monument as Described
- Found Monument as Described
- Found Monument as Described
- Electric Transformer
- Light Pole
- Utility Pole
- Telephone Pad
- Water valve
- Fire Hydrant
- Water Shut-off
- Water Spigot
- Well
- PVC pipe
- Irrigation Cont. Valve
- Sanitary Sewer Manhole
- Cleanout
- Gas Meter
- CATV Pedestal
- Sign - Single Pole
- Overhead Electric Line
- Fenceline
- Overhead Telephone Line
- Rock wall
- Building Envelope Line
- Concrete
- Stone
- Gravel
- Deck
- Flagstone
- Asphalt paving



- VICINITY MAP -
SCALE: 1 inch = 2000 Feet

PROPERTY DESCRIPTION:

GLENWOOD SPRINGS MUNICIPAL OPERATIONS CENTER MINOR SUBDIVISION RECORDED NOVEMBER 07, 2002 UNDER RECEPTION NO 614253

NOTES:

1. Basis of Bearings: Bearings shown hereon are based on an assumed bearing of _____ between _____ and _____ both corners being monumented as shown hereon
2. This map has been prepared pursuant to client request for an Amended Minor Subdivision Plat.
3. Date of field survey : October 31, 2019
4. Units of linear measurements are displayed in US Survey Feet.
5. SGM will not be responsible for any changes made to this document after it leaves our possession. Any copy, facsimile, etc., of this document must be compared to the original signed, sealed and dated document to ensure the accuracy of the information shown on any such copy, and to insure that no such changes have been made
6. Any subsurface utilities not shown, were not marked by appropriate utility companies at the time of this survey and therefore may not be shown hereon. Underground utilities locates have been marked by _____. Only paint marks and utility pin flags on the ground surface were surveyed by SGM as part of this survey. Owner/contractor must contact specific utility companies to verify both the location and depth of respective utilities. Additional surveying work may be required to show any such subsurface utility locations on this drawing. SGM will not be responsible for protection of subsurface utilities.
7. Property descriptions shown hereon are based on Glenwood Springs Municipal Operations Center Minor Subdivision recorded November 07, 2002 under Reception No. 614253.
8. Fences shown hereon have been shown for general reference and do not necessarily depict limits of ownership.
9. The property shown hereon is subject to all easements, rights-of-way, building setbacks or other restrictions of record, as such items may affect this property. This survey does not represent a title search by this surveyor to determine ownership or to discover easements or other encumbrances of record. All information pertaining to ownership, easement and other encumbrances of record has been taken from the title insurance commitment issued by Land Title Guarantee Company, Commitment No ABS63014212, having an effective date of August 27, 2020.

Every attempt has been made to show all easements, rights-of-way, etc. referred to in the Schedule B2 Exceptions recited in said title insurance policy. Some such items may not be shown (i.e. Items 8-11) if they are standard title commitment exceptions, or if not sufficiently described in recorded documents to be shown graphically, or if they are situated on adjacent properties, or if they affect the property in general, etc. in regards to other such items:

- LINE TABLE -

LINE #	BEARING	DISTANCE
L1	N02°31'09"E	132.01'
L2	N62°28'35"E	13.21'
L3	N61°33'08"E	51.35'
L4	N63°28'35"E	117.28'
L5	S37°37'22"W	53.33'
L6	S88°35'22"W	25.04'
L7	S08°34'16"W	60.90'
L8	N89°27'19"W	61.43'
L9	S79°26'02"W	104.84'
L10	S57°26'07"W	383.86'
L11	N30°38'55"W	265.78'
L12	N23°56'20"E	110.36'
L13	N57°26'02"E	250.08'

- CURVE TABLE -

CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	580.98'	880.00'	37°48'37"	S72°00'06"E	570.49'
C2	122.26'	102.00'	68°40'40"	S63°54'37"E	115.07'
C3	121.28'	1250.00'	5°30'53"	S33°45'33"E	121.23'
C4	349.50'	1260.00'	15°53'34"	S44°25'51"E	348.38'
C5	82.36'	1250.00'	3°46'33"	S56°16'05"E	82.29'
C6	25.60'	132.00'	11°06'39"	S84°59'24"W	25.56'
C7	41.47'	108.00'	21°59'55"	S68°26'04"W	41.21'

CERTIFICATE OF DEDICATION AND OWNERSHIP

Know all men by these presents that the City of Glenwood Springs, being sole owners in fee simple of all that real property described as follows:

LOT A, GLENWOOD SPRINGS MUNICIPAL OPERATIONS CENTER MINOR SUBDIVISION RECORDED NOVEMBER 07, 2002 UNDER RECEPTION NO 614253, and containing 29.974 acres, more or less:

Have by these presents laid out, platted and subdivided the same into lots and blocks as shown hereon and designate the same as First Amended Minor Subdivision Plat of Glenwood Spring Municipal Operations Center in the City of Glenwood Springs, County of Garfield, Colorado, and do hereby grant to the City of Glenwood Springs, County of Garfield, Colorado, for public use the streets shown hereon, including avenues, drives, courts, places and alleys, the public lands shown hereon for their indicated public use, and the utility and drainage easements shown hereon for utility and drainage purposes only; and do further state that this subdivision shall be subject to the protective covenants filed and recorded for this subdivision in the office of the Clerk and Recorder of Garfield County, Colorado as Reception No _____ and subject to the Subdivision Agreement filed and recorded for this subdivision in the office of the Clerk and Recorder of Garfield County, Colorado as Reception No. _____.

EXECUTED this _____day of _____, A.D. 20___.
Owners_____

STATE OF COLORADO
SS
COUNTY OF GARFIELD

The foregoing dedication was acknowledged before me this ____day of _____ A.D. 20___ by _____

My commission expires _____
WITNESS MY HAND AND SEAL
_____
Notary Public

COMMUNITY DEVELOPMENT DIRECTOR CERTIFICATE:

This plat was approved by the City of Glenwood Springs Director of Community Development this ____day of _____ A.D. 20___.

_____
Director

SURVEYOR'S CERTIFICATE:

I, Joshua C. Wilson, do hereby certify that I am a registered land surveyor licensed under the laws of the State of Colorado, that this plat is a true, correct and complete plat of the First Amended Minor Subdivision Plat of Glenwood Spring Municipal Operations Center, as laid out, platted, dedicated and shown hereon, that such plat was made from an accurate survey of said property by me and under my supervision and correctly shows the location and dimensions of the lots, easements and streets of said subdivision as the same are staked upon the ground in compliance with the City of Glenwood Springs regulations governing the subdivision of land.

In witness whereof I have set my hand and seal this _____ day of ____ A.D. 20___.

_____
Registered Land Surveyor

PRELIMINARY - FOR REVIEW ONLY

CLERK AND RECORDER'S CERTIFICATE:

This plat was filed for record in the office of the Clerk and Recorder of Garfield County at _____ o'clock ___M on the ____day of _____ 20___ as Reception No. _____

_____
Clerk and Recorder

BY _____
Deputy

SGM
118 West Sixth Street, Suite 200
Glenwood Springs, CO 81601
970.945.1004 www.sgm-inc.com

Glenwood Spring Municipal Operations Center
Glenwood Springs, Colorado

Date	By	Revisions
		Note: Attorney to Review this plat and provide any and all legal comments prior to the City of Glenwood Springs Planning Commission hearing. Failure to do so may result in the City being in contempt of the Court.

Job No. 2019-002.201
Drawn by JW
Date
Approved JCW / PLD
File 2019-002_AmMin

Boundary & Access Easement

Title: First Amended Minor Subdivision Plat

Sheet No. 1
Of: 2

ADDENDUM "A" TO THAT CERTAIN
COMMERCIAL CONTRACT TO BUY AND SELL REAL ESTATE
DATED February 13, 2020, BY
THE CITY OF GLENWOOD SPRINGS, AS SELLER
AND
THE ROARING FORK TRANSPORTATION AUTHORITY, AS BUYER

THIS ADDENDUM is entered into simultaneously with that Commercial Contract to Buy and Sell Real Estate hereinabove referenced ("Contract") and is supported by the same considerations as expressed therein and the mutual terms, conditions, and covenants set forth below. In the event of any conflict between the Contract and this Addendum, the provisions of this Addendum shall control. The Contract and this Addendum are sometimes collectively hereinafter referred to as "this Contract."

1. The Property. The Property, described in Paragraph (1) of the Contract and Exhibit "1" as "Property A", is an approximately 11 acre parcel commonly known as the Glenwood Springs Operations Center Property ("GMOC") that is part of a larger parcel to be subdivided by Seller at Seller's sole expense into a separate parcel before it can be conveyed to Buyer. Exhibit 1 is a preliminary version of the Glenwood Springs Municipal Operations Center prepared by Schmueser Gordon Meyer. The Property shall include: (a) all easements, rights of way, and vacated roads, including, but not limited to, the .62 acre access road leading to the GMOC, streets and alleys, adjacent or appurtenant to the Property which shall be depicted on the survey provided by Seller; (b) all buildings, fixtures, and improvements on the Property (the "Improvements"); (c) all of Seller's right, title, and interest in and to all utility taps and deposits, licenses, permits, contract rights, warranties and guarantees, impound accounts, security and damage deposits, and all variations thereof, and all other intangible personal property associated with or related to the Property or the Improvements to be conveyed by Bill of Sale; (d) all of Seller's right, title, and interest in and to all water, ditch, reservoir, and well rights, interests and priorities, decreed or undecreed, tributary and nontributary, customarily used with or upon the Property or appurtenant thereto to be conveyed by Bill of Sale; (e) all furnishings, furniture, equipment, machinery, supplies, and the personal property owned by Seller, that Seller does not remove from the Property at the conclusion of Seller's occupancy on or before June 30, 2020 and made a part hereof to be conveyed by Bill of Sale; and (f) all of Seller's right, title and interest in and to the cell tower on the Property and all mobile equipment and apparatus attached or related thereto.

Seller will create an easement covering the entire 0.614 acre access parcel for access, drainage and utilities. This will be finalized on the platting.

Notwithstanding the above, Seller shall be entitled to reserve an easement, as depicted on Exhibit 1 for existing electric and fiber optic lines; subject, however, to Buyer's right, in Buyer's sole discretion, to relocate the easement in furtherance of Buyer's development and use of the Property.

2. Title Insurance. The title insurance package referred to in paragraph "7" shall be issued on the ALTA 1987 owner's form with the standard printed exceptions deleted.

3. Subdivision and Survey. On or before thirty (30) days after MEC as defined herein, Seller, at Seller's expense, shall provide copies of a boundary and improvement survey of the Property prepared from an on the ground inspection by a surveyor licensed in the State of Colorado. Such survey shall consist of an improvement survey Plat as defined in C.R.S. § 38-51-100.3, which survey shall appropriately locate all boundary corners of the Property not previously located. Such survey shall be dated as of a date no earlier than the date of this Contract and shall contain: (a) the correct legal description of the Property by platted lot description if the Property is platted, otherwise by metes and bounds descriptions; (b) all property dimensions of the Property and the location of all boundary corners of the Property; (c) the number of square feet contained within the Property; (d) the location of any all easements and rights of way which are revealed by physical inspection of the Property or the commitment and showing the recorded information for any easement and right of way created by a recorded instrument; and (e) the location of any and all improvements located on, under, or encroaching onto the Property including, but not limited to, any and all buildings, sidewalks, driveways, paved parking areas, roads, poles, overhead power lines, and fences.

It shall be considered a defect in title hereunder if any improvement located on the Real Property encroaches upon adjacent lands or if any improvements on adjacent lands encroach upon the Property or into zoning setbacks.

Such survey shall include the surveyor's certificate to Buyer and to the title insurance company providing the title insurance under the Contract, setting forth and verifying the accuracy of the legal description, shall certify that all the foregoing requirements are truly and accurately shown on the plat of such survey.

In the event Seller fails to complete the above items as specified herein, then Buyer, at Buyer's sole option and discretion, may declare this Contract null and void and of no further force and effect and have all earnest money, including interest, returned therewith, or in the alternative, Buyer may waive Seller's nonperformance and proceed to closing.

In the event such survey discloses any discrepancies in the location of boundaries or compliance with setback requirements or encroachments, Buyer, at Buyer's sole option, shall be entitled to terminate this Contract by written notice delivered to Seller on or prior to the survey objection deadline, whereupon all amounts therefor paid by Buyer as earnest money, if any, or other things of value shall be promptly refunded to Buyer and the parties shall have no further obligation or liabilities to each other.

4. Conditions Precedent to Buyer's Obligation.

4.1 Buyer's obligation to perform under this Contract is subject to and contingent upon satisfaction or waiver of each and every one of the following conditions:

a. Section 13.2 of the City Charter of the City of Glenwood Springs requires that lands owned and used by the City for governmental purposes cannot be sold or conveyed without the affirmative vote of the majority of the qualified electors. A special

election seeking such affirmative vote has been scheduled on April 14, 2020, pursuant to Resolution 2020-2 of the Glenwood Springs City Council. Accordingly, approval by the affirmative vote of a majority of the qualified electors is a condition precedent to the purchase and sale of the Property.

b. Subdivision of the Property by Seller, at Seller's sole cost and expense as provided in paragraph 3 of this Addendum.

c. Approval of funding this contract by the RFTA Board, by written resolution no later than thirty (30) days after MEC as defined herein. In the event said approval is not granted, this Contract shall terminate and all earnest money deposits shall be returned to Buyer.

d. The ability of the issuer of the Title Commitment to issue its policies of title insurance, upon recordation of Seller's General Warranty Deed to Buyer, insuring title to the Property.

e. The truth and accuracy, as of closing, of the representations and warranties of Seller contained in this Contract.

f. Buyer's written approval, in Buyer's sole and subjective discretion, of the Property and all systems and conditions thereat (including, without limitation, heating, electrical, plumbing, paving, amenities, water, and roof, and geological and soils conditions), pursuant to physical inspection by Buyer or by whomsoever Buyer may designate on or before thirty (30) days after MEC as defined in this Addendum. Except as otherwise provided herein, no inference that Buyer has waived any right to rely on representations or warranties of Seller set forth in this Contract shall be drawn by Buyer's approval of the Property pursuant to said physical inspection.

g. There being no adverse change in the Property from the date of this contract to closing.

h. Seller shall have performed at Seller's expense to Buyer's satisfaction all recommendations to remediate the REC found at the Property as reported and discussed in the Phase I Environmental Site Assessment prepared by Environmental Services, Inc. for Eric J. Rolle, P.E., PMP Vice President, Shrewsberry & Associates and Nicholas A. Senn, Roaring Fork Transportation Authority Senior Project Manager (the "ESA"), ESI Job No.: 19-121.00, dated October 9, 2019 and Amended November 5, 2019, including without limitation the letter in the ESA dated November 5, 2019, from Craig Heydenberk, Environmental Consultant, which ESA is incorporated herein by this reference. Seller also agrees to remediate, at Seller's sole expense, any and all RECs existing at such time as Seller terminates occupancy of the Property and resulting from Seller's fueling activities on the Property.

5. Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Buyer, which shall be true as of closing and shall survive

closing, and which are not intended to replace or limit in any manner any express or implied warranty provided under applicable law:

5.1 The Property and all systems therein, and the intended use thereof, conform to all fire, zoning, health, environmental, subdivision, building, labor, and other federal, state and local codes, subdivision regulations, rules and regulations, and there are no violations thereof with respect to the Property. Seller has received no notice of nor does it have any knowledge of any pending or threatened action or governmental proceeding in eminent domain or zoning change that would affect the Property, nor does Seller know of any fact that might give rise to any such proceeding. The zoning of the property shall permit Buyer's intended use as a bus maintenance and storage facility.

5.2 No person or entity has any right, title or interest in or to the Property other than Seller.

5.3 There is no maintenance, construction, advertising, leasing, employment, service or other contract affecting the Property which will be in effect at closing, except those that may be disclosed in connection with the title commitment.

5.4 Seller acknowledges that Buyer's intent to demolish all GMOC structures; those items that Seller desires to salvage are identified on Exhibit "D," attached hereto and made a part hereof.

5.5 All applicable permits, declarations, and other evidences of compliance from regulatory authorities required to be obtained in connection with the construction of improvements at the Property, the sale of the Property to Buyer, and the operation and use of the Property, including, without limitation, those regulating the division of real property and environmental matters, have been obtained.

5.6 There is no mechanic's or materialman's lien or similar claim or lien presently claimed or which will be claimed against the Property for work performed or commenced prior to closing. Seller agrees to hold Buyer harmless from all costs, expenses, liabilities, losses or charges arising from or relating to any such mechanic's liens.

5.7 Seller has the capacity and authorization to enter into and carry out this Contract and the transactions contemplated hereby.

5.8 Seller shall not, prior to closing, cancel or reduce the amount of coverage of any insurance policy covering the Property or any part thereof.

5.9 There is no suit, action or arbitration, or legal or other proceeding or governmental investigation pending or threatened which affect the Property or Seller's rights and obligations pursuant to this Contract.

5.10 This Contract, when executed by Seller, shall have been duly and properly executed, and neither the execution of this Contract nor the consummation of the transactions

contemplated hereby will constitute a default or an event which, with notice or the passage of time, or both, would constitute a default under, or violation or breach of, any indenture, mortgage, deed of trust or other instrument or agreement to which Seller is a party or by which Seller or the Property may be bound.

5.11 To the best of Seller's knowledge and that of Seller's agents and employees, no public improvements have been ordered, threatened, announced or contemplated, and there are no public improvements assessed against the Property which have not been fully paid as of the date of closing.

5.12 Disclosure of Adverse Geological and Soil Conditions. Seller has disclosed to Buyer adverse geological and soil conditions affecting the Property, and knows of no infestation of any termites, dry rot or fungus in accessible areas, including, without limitation, interiors of the Property. Seller represents that all geological and soil studies pertaining to the Property in Seller's possession or under Seller's control have been provided to Buyer prior to the execution of this Contract by Seller.

5.13 Seller has made no materially untrue statement or representation in connection with this Contract, and all items from Seller transferred to Buyer are true and correct copies of what they purport to be. Said items have not been amended or modified, other than as also transferred to Buyer. Seller has not failed to state or disclose any material fact in connection with the transactions contemplated by this Contract.

5.14 As of the date of closing, Seller will have performed all remediation of the recognized environmental conditions ("REC") on the Property as provided in the ESA referenced hereinabove or subsequent environmental reports in connection with Seller's use and occupancy after closing as provided in Exhibit B.

6. Inspection and Possession. Upon execution of this Contract, Buyer, through its authorized agents, personnel and employees, shall be entitled to enter upon the Property in a reasonable manner during normal business hours to make such inspection as Buyer may deem necessary, provided that (1) such entrance and Buyer's activities shall not interfere with Seller's use of the Property; (2) inspections, surveys, and test borings shall be permitted, but no construction of any type shall be allowed; (3) Buyer shall at all times comply with applicable laws and ordinances and shall hold Seller harmless from any and all liability and liens on account of Buyer's activities on the Property; (4) Buyer shall engage in no activity that could lead to or cause erosion, permanent harm, damage or littering to or of the Property; (5) Buyer shall leave the Property in the same condition as when such entrance occurred; and (6) it shall be Buyer's responsibility and obligation to cause Buyer's employees agents, and contractors to comply fully with the letter and spirit of this subparagraph. Seller shall deliver full possession to Buyer at closing; however, the Buyer shall allow Seller continued use of portions of the Property in accordance with that Use Agreement attached as Exhibit "B".

7. Notices. All notices, consents, and approvals required by this Contract shall be in writing and shall be placed in the U.S. mail, certified, return receipt requested, properly addressed, and with the full postage prepaid. Said notices, consents, and approvals shall be

deemed received on the earlier of (i) the date actually received, or (ii) three (3) business days after being mailed as aforesaid.

Said notices, consents, and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Seller:	City of Glenwood Springs Attn.: Debra Figuero 101 West 8th Street Glenwood Springs, Colorado 81601
With a copy to:	Karl Hanlon, Esq. Karp, Neu Hanlon, P.C. 201 14th Street, Suite 200 Glenwood Spirngs, CO 81602
To Buyer:	Roaring Fork Transit Agency Attn.: Dan Blankenship, CEO 2307 Wulfsohn Road Glenwood Springs, Colorado 81601
With a copy to:	Paul J. Taddune, Esq. Paul J. Taddune, P.C. 323 West Main, Suite 301 Aspen, Colorado 81611

8. Entire Contract. This Contract, together with all exhibits referred to herein, constitutes the entire understanding between the parties hereto, and supersedes any and all prior agreements, arrangements, and understandings among the parties hereto.

9. Exhibits. All exhibits attached hereto are hereby incorporated by reference and made a part hereof.

10. Amendments. This Contract can be amended only in writing signed by Buyer and Seller.

11. Buyer's Approvals and Disapprovals. Buyer's rights to approve or disapprove matters relating to the Property as provided for in this Contract shall be in the sole discretion of Buyer, and no such approval shall affect Seller's representations and warranties herein or waive any rights of Buyer to rely upon the representations and warranties of Seller, unless Buyer's approval so provides.

12. Further Actions. Buyer and Seller agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Contract or any agreement or document relating hereto or entered into in connection herewith.

13. Payment of Encumbrances. Any encumbrance required to be paid shall be paid at or before the time of settlement from the proceeds of this transaction or from any other source.

14. Property Information. Seller, without additional cost to Buyer, within thirty (30) days after MEC as defined in this Addendum, shall deliver to Buyer copies of all surveys, engineering studies, feasibility studies, soil and water test results, maps, plats, contracts, documents, agreements, permits, licenses, reports, and data pertaining to or affecting the Property that are in Seller's possession or under Seller's control. In the event of termination of this Contract for any reason other than Seller's default, Buyer, without additional cost to Seller, shall promptly deliver to Seller copies of all of the above listed materials pertaining to the Property that are in Buyer's possession or under Buyer's control.

15. Facsimile Signatures. Signatures obtained via facsimile transmission shall be deemed legal and binding for purposes of this Contract. Copies of the contract with original ink signatures shall be forwarded to all parties within ten (10) days after their execution.

16. Facsimile as Original. A telecopied facsimile of this Contact and any notice hereunder shall be considered to be an original. The send of any facsimile shall transmit the original of the facsimile via Federal Express or U.S. Mail as soon as possible after the transmission. In the event of any discrepancy between the facsimile and the subsequently transmitted original, the facsimile shall be considered to prevail.

17. Time. In the event the last day permitted for the performance of any act required or permitted under this Contract falls on a Saturday, Sunday or holiday, the time for such performance shall be extended to the next succeeding business day.

18. Attorneys' Fees. Should this Contract become the subject of litigation to resolve a claim of default in performance by either party, the party who is determined to be in default shall pay the attorneys' fees, expenses, and court costs of the nondefaulting party.

19. Hazardous Waste.

19.1 Hazardous Waste Inspection. Notwithstanding the provisions of this Contract with respect to inspection of the Property, within ten days after the Seller shall have remediated and corrected all of the REC as provided in this section, in addition to the ESA referenced hereinabove, Buyer shall employ a qualified independent consultant acceptable to Buyer to inspect the property for the purpose of determining the existence, nature and location of any environmental contamination or condition found on the property (such inspection and report called the "Hazardous Waste Inspection Report"). The exact scope of the Inspection shall be to conduct a Phase 2 site assessment to assure that there shall be no liability to Buyer under applicable environmental laws concerning hazardous substances including liability under CERCLA. Such inspection shall include an evaluation of asbestos contamination. The Inspection shall be sufficient to qualify Buyer for the innocent land owner defense to CERCLA liability.

19.2 Cost of the Hazardous Waste Inspection. Buyer shall be responsible for the cost of the Hazardous Waste Inspection.

19.3 Disclosure, Review, Indemnification and Termination. The Hazardous Waste Inspection Report shall be provided to Seller as soon as the same is available. Buyer shall, within ten days after Buyer receives the Hazardous Waste Inspection Report, give notice to the Seller of any specific matter disclosed by the Hazardous Waste Inspection Report which is unacceptable to Buyer (such notice called the "Objection"). Within five days after Seller receives the Objection, Seller may, at Seller's election, either cure the unacceptable matter, or indemnify the Buyer against any damages which might arise out of the unacceptable matter (such time period called the "Cure Period"). In the event Seller does not elect to cure and/or indemnify against any unacceptable matter within the Cure Period, then Buyer may by notice given within ten days after the expiration of the Cure Period, either:

(a) Terminate this Contract and all rights and obligations of the parties under this Contract, and receive a refund of the Earnest Money, together with all interest earned thereon; or

(b) Waive any objection to the unacceptable matter which is not cured or indemnified against, and proceed to close the transaction contemplated by this Contract.

(c) In the event the Hazardous Waste Inspection is not complete, and the Hazardous Waste Inspection Report is not available to the Buyer five (5) business days prior to the date of closing, the dates contained herein, and the closing date shall automatically be extended by ten (10) business days.

20. MEC. For purposes of Sections 3.1 and 3.2 of the Contract, the term MEC shall mean thirty (30) days after the approval of this transaction by the affirmative vote of a majority of the electors of the City of Glenwood Springs as required by Section 13.2 of the Glenwood Springs City Charter, at which time the Mayor of Seller shall execute the Contract.

SELLER:	BUYER:
THE CITY OF GLENWOOD SPRINGS	ROARING FORK TRANSPORTATION AUTHORITY
BY:_____	BY:_____

EXHIBIT B
POST-CLOSING USE AND OCCUPANCY AGREEMENT

1. This Post-Closing Occupancy Agreement (Agreement) is entered into between the City of Glenwood Springs (Seller), and the Roaring Fork Transportation Authority ("RFTA") or (Buyer), relating to the occupancy of the following legally described real estate in the County of Garfield, Colorado:

> That property commonly known as the Glenwood Springs Maintenance and Operating Center ("GMOC"), an approximate 11 acre parcel, more specifically described on Exhibit 1, attached hereto ("Property").

2. Buyer and Seller entered into that certain Contract to Buy and Sell Real Estate dated February 13, 2020, and any amendments (Contract). All terms of the Contract are incorporated herein by reference. In the event of any conflict between this Agreement and the Contract, this Agreement controls, subject to subsequent amendments to the Contract or this Agreement. This Agreement is conditional upon Closing. If Closing does not occur this Agreement is terminated.

3. Seller may retain possession of the fuel station and storage on the Property from date of Closing to June 30, 2020, subject to the following rights and obligations of Seller:

- Seller may retain occupancy of the fuel station and shall have access to the fuel station, storage on the site and storage in the building until June 30, 2020.

- Seller shall be allowed to take the open steel covered storage structure adjacent to the debris flow pond slope if Seller chooses, such election and removal to be made on or before June 30, 2020.

- Seller shall allowed to retain the primary electric and fiber optic lines in the location shown on the page 3 of the attached, subject to the right of the Buyer in Buyer's sole discretion, to relocate such primary electric and fiber option lines in furtherance of Buyer's development of the Property.

- Seller shall maintain/pay for utilities at the building until closing.

- Seller shall allow access to the building by RFTA employees or consultants as needed for design, survey, etc. prior to closing.

- As provided in the Addendum, Seller shall remediate, at Seller's sole expense, any and all RECs existing at the time that Seller's occupancy of the Property on or before April 30, 2020 or resulting from Seller's fueling activities.

itemized in In the event Seller provides written notice to Buyer, the Term will automatically adjust to the last day of Seller's possession of the Property if Seller vacates the Property early. Notice shall be provided to the address, fax number or email address of the recipient as specified below or as otherwise specified, in writing, by the recipient. Seller agrees to use the Property for the purpose of and subject to the duties and obligations of Seller and Buyer outlined in Attachment 1. Seller's rights and obligations may not be transferred or assigned in whole or in part, voluntarily or involuntarily. The rights and remedies of the parties under this Agreement shall survive the Term.

4. During the Term, Seller, at Seller's sole expense, shall keep the improvements and any personal property on the Property and owned by Buyer in the same condition and repair, normal wear and tear excepted, as of Closing, except as set forth in § 5. Seller shall maintain the Property as Seller previously maintained the Property to include, but not limited to, landscaping, remove snow, water and mow the lawn. Seller shall provide timely notice to Buyer of any improvement requiring maintenance or repair.

5. If necessary, Buyer shall, at Buyer's sole expense, maintain, repair and replace the heating and cooling systems including ventilation and ducts, plumbing, electrical wiring, roof and structural components of the Property, and all appliances in the Property owned by Buyer, and the lawn sprinkler system, if any. Seller is responsible for any misuse, waste, neglect or damage to the Property or personal property on the Property caused by Seller or Seller's family or visitors after Closing.

6. Buyer shall have access to the Property at all reasonable times and Buyer, or Buyer's designee, may enter the Property without interference or disturbing Seller's possession of the Property. Seller acknowledges and agrees that Buyer may demolish the structures on the Property, so long as Buyer's demolition actions do not unreasonably interfere with Seller's use as provided in this Agreement.

7. During the Term, Seller agrees to abide by all federal, state and local laws. Seller agrees that Seller will not store or use any hazardous materials on the Property other than those materials customarily used or stored in accordance with Seller's use as a Maintenance and Operations Center and only so as not to adversely affect coverage or cost of hazard insurance on the Property. Seller shall perform and complete all recommendations and environmental requirements for environmental remediation pursuant to environmental assessment reports obtained by Buyer and as provided for in the Contact.

8. Should Seller not timely surrender possession of the Property to Buyer, Seller will be subject to eviction and additionally liable to Buyer for payment of $500.00 per day from and after the Term, until possession is delivered to Buyer.

9. Water and sewer charges incurred for use during the Term shall be paid by Seller.

10. Electric and gas service incurred for use during the Term shall be paid by Seller. Arrangements for the final reading and payments for said utilities and services may be made by either party. Any other utility or service used by Seller during the Term will be paid for by Seller.

11. Seller shall maintain and pay the cost of insurance covering Seller's personal property on the Property and shall maintain and pay the cost of adequate liability insurance in favor of both Seller and Buyer and supply to Buyer evidence of such insurance at or before Closing. During the Term, Seller agrees, to the extent permitted by law, to indemnify and hold Buyer harmless from all injury, loss, claim or damage to any person or property caused by Seller during the Term that is not paid by Seller's insurance.

12. Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Agreement, prior to or after the Term, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

SELLER:	BUYER:
THE CITY OF GLENWOOD SPRINGS	ROARING FORK TRANSPORTATION AUTHORITY
BY:_____	BY:_____