

**Empire Title of Colorado Springs, LLC**  
**5555 Tech Center Drive, Suite 110**  
**Colorado Springs, CO 80919**  
**Phone: 719-884-5300**  
**Fax: 719-884-5304**

**Transmittal Information**

Date: 04/28/2022  
File No: 85511ECS  
Property Address: 11750 Green Acres Lane, Colorado Springs, CO 80908  
Buyer\Borrower: To Be Determined.  
Seller: Jerry Lomax and Sharon Lomax

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For changes and updates please contact your Title officer:  
**Erin Smith**  
**Empire Title of Colorado Springs, LLC**  
**c/o Stewart Title Southern Colorado Production Services**  
**Phone: 719-884-5300**  
**Fax: 719-884-5304**

E-mail: [Erin.Smith@stewart.com](mailto:Erin.Smith@stewart.com)

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**Customer:**  
**Seller**

**Phone: Fax:**  
**Attn:**

**Buyer:**  
**To Be Determined.**  
**DELIVERED VIA: AGENT**

**Seller:**  
**Jerry Lomax and Sharon Lomax**  
**DELIVERED VIA: E-MAIL**

**Buyer's Agent:**

**Seller's Agent:**

**Buyer's Attorney:**

**Seller's Attorney:**

**Lender:**

**Mortgage Broker:**

**Phone: Fax:**  
**Attn:**

**Phone: Fax:**  
**Attn:**

**Changes: Updated Effective Date, Added Exceptions**

**Thank you for using Empire Title of Colorado Springs, LLC.**



5555 Tech Center Drive, Suite 110, Colorado Springs, CO 80919  
Phone: 719-884-5300 Fax: 719-884-5304

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## UNDERSTANDING YOUR TITLE COMMITMENT

### SCHEDULE A:

**No. 1: Effective date:** This is the date our title plant is certified through. There will typically be a 1-2 week gap between the certification date and the date the commitment is issued.

**No. 2A : Owner's Policy Proposed Insured:** This is how the buyer's name(s) appear(s) on the Contract, all Closing documents and your Final Title Policy. If your name is appearing incorrectly, please advise your Realtor, Builder and/or Lender.

**No. 2B : Loan Policy Proposed Insured:** This is how your lender has requested their name appear. If you are working with a Mortgage Broker, then this name may be unfamiliar to you. If a determination has not yet been made on what lender will be providing your loan, then this may appear as 'TBD' (To Be Determined). If you are paying cash for this purchase, this item will be left blank.

**Charges: Title Premiums, Endorsements and Tax Certificates:** These are fees for the items that the Company has determined may be required by your Lender and/or to meet the terms of your contract. Your lender may request additional items. This does not include any closing fees.

**No. 3: The estate or interest in the land...:** This shows the type of ownership that is going to be insured.

**No. 4: The Title is, at the Commitment Date...:** This shows the name(s) of the current owner(s).

**No. 5: The land referred to in the Commitment...:** This is the 'legal' property description for the real estate you are buying or selling.

### SCHEDULE B-SECTION 1:

These are Requirements that must be satisfied in order to provide clear title to the Buyer and/or Lender. The closer and/or processor for the Title Company, will generally take care of satisfying these requirements, however there may be times when your help will be needed as well. Some requirements will be met prior to closing, and others will be met at the time of closing.

### SCHEDULE B-SECTION 2:

These items are Exceptions to your coverage. We are telling you these items exist (whether by recordation in the County Clerk and Recorder's office or because we have knowledge of them through other means). Since these items have been disclosed to you, you will not be provided any coverage for same. Owner's Extended Coverage will delete Items 1-5 of the pre-printed items on Residential Sale Commitments, provided that the coverage was requested by contract and collected at closing. Copies of the plat and covenants will be automatically sent to the buyer and/or Selling Agent. We are happy to also provide you with copies of any other exceptions as well.



**WIRE FRAUD  
ALERT  
NOTIFICATION:**

**READ THIS BEFORE YOU WIRE FUNDS**

**WIRE FRAUD: THE THREAT IS REAL**

Buying a home is an exciting time. You've saved, found the perfect home and planned the move. Now, the closing day for your home is just around the corner.

We want to make sure your home purchase doesn't get derailed by a dangerous threat that could keep you from getting the keys, painting walls and decorating. Criminals have stolen money meant for the purchase of homes through malicious wire fraud schemes targeting consumers across the country.

Criminals begin the wire fraud process way before the attempted theft occurs. Most often, they begin with a common social engineering technique called phishing. This can take the form of email messages, website forms or phone calls to fraudulently obtain private information. Through seemingly harmless communication, criminals trick users into inputting their information or clicking a link that allows hackers to steal login and password information.

Once hackers gain access to an email account, they will monitor messages to find someone in the process of buying a home. Hacks can come from various parties involved in a transaction, including real estate agents, attorneys or consumers. Criminals then use the stolen information to email fraudulent wire transfer instructions disguised to appear as if they came from a professional you're working with to purchase a home. If you receive an email with wiring instructions, don't respond. Email is not a secure way to send financial information. If you take the bait, your money could be gone in minutes.

**What can I do to protect myself?**

Despite efforts by the title industry and others to educate consumers about the risk, homebuyers continue to be targeted. Here are some tips on what you can do to protect yourself and/or your clients:

1. **If requested**, wiring instructions will be provided via an encrypted email.
2. **Call, don't email**: Confirm all wiring instructions by phone before transferring funds. Use the phone number from the title company's website or a business card.
3. **Be suspicious**: It's not common for title companies to change wiring instructions and payment info
4. **Confirm it all**: Ask your bank to confirm not just the account number but also the name on the account before sending a wire. The name on the account should state Empire Title of Colorado Springs, LLC.
5. **Verify immediately**: You should call the title company or real estate agent to validate that the funds were received. Detecting that you sent the money to the wrong account within 24 hours gives you the best chance of recovering your money from the hackers.
6. **Forward, don't reply**: When responding to an email, hit the "forward" button instead of clicking the "reply" button, and then start typing the person's email address. Criminals use email addresses that are very similar to the real one for a company. By typing in email addresses, you will make it easier to discover if a fraudster is after you.



ALTA COMMITMENT FOR TITLE INSURANCE (07-01-2021)

ISSUED BY
STEWART TITLE GUARANTY COMPANY

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, STEWART TITLE GUARANTY COMPANY, a Texas corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Countersigned by:

Alicia Simpson

Authorized Countersignature
Empire Title of Colorado Springs, LLC
Company Name
Colorado Springs, CO
City, State



Frederick H. Eppinger
President and CEO

David Hisey
Secretary

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## COMMITMENT CONDITIONS

### 1. DEFINITIONS

- a. "Discriminatory Covenant": Any covenant, condition, restriction, or limitation that is unenforceable under applicable law because it illegally discriminates against a class of individuals based on personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or other legally protected class.
  - b. "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.
  - c. "Land": The land described in Item 5 of Schedule A and improvements located on that land that by State law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
  - d. "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.
  - e. "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
  - f. "Proposed Amount of Insurance": Each dollar amount specified in Schedule A as the Proposed Amount of Insurance of each Policy to be issued pursuant to this Commitment.
  - g. "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
  - h. "Public Records": The recording or filing system established under State statutes in effect at the Commitment Date under which a document must be recorded or filed to impart constructive notice of matters relating to the Title to a purchaser for value without Knowledge. The term "Public Records" does not include any other recording or filing system, including any pertaining to environmental remediation or protection, planning, permitting, zoning, licensing, building, health, public safety, or national security matters.
  - i. "State": The state or commonwealth of the United States within whose exterior boundaries the Land is located. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Guam.
  - j. "Title": The estate or interest in the Land identified in Item 3 of Schedule A.
2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.
3. The Company's liability and obligation is limited by and this Commitment is not valid without:
- a. the Notice;
  - b. the Commitment to Issue Policy;
  - c. the Commitment Conditions;
  - d. Schedule A;
  - e. Schedule B, Part I - Requirements;
  - f. Schedule B, Part II - Exceptions; and
  - g. a countersignature by the Company or its issuing agent that may be in electronic form.

### 4. COMPANY'S RIGHT TO AMEND

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The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company is not liable for any other amendment to this Commitment.

#### **5. LIMITATIONS OF LIABILITY**

- a. The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
  - i. comply with the Schedule B, Part I - Requirements;
  - ii. eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
  - iii. acquire the Title or create the Mortgage covered by this Commitment.
- b. The Company is not liable under Commitment Condition 5.a. if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- c. The Company is only liable under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- d. The Company's liability does not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Condition 5.a. or the Proposed Amount of Insurance.
- e. The Company is not liable for the content of the Transaction Identification Data, if any.
- f. The Company is not obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
- g. The Company's liability is further limited by the terms and provisions of the Policy to be issued to the Proposed Insured.

#### **6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT; CHOICE OF LAW AND CHOICE OF FORUM**

- a. Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- b. Any claim must be based in contract under the State law of the State where the Land is located and is restricted to the terms and provisions of this Commitment. Any litigation or other proceeding brought by the Proposed Insured against the Company must be filed only in a State or federal court having jurisdiction.
- c. This Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- d. The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- e. Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- f. When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

#### **7. IF THIS COMMITMENT IS ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for closing, settlement, escrow, or any other purpose.

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**8. PRO-FORMA POLICY**

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

**9. CLAIMS PROCEDURES**

This Commitment incorporates by reference all Conditions for making a claim in the Policy to be issued to the Proposed Insured. Commitment Condition 9 does not modify the limitations of liability in Commitment Conditions 5 and 6.

**10. CLASS ACTION**

ALL CLAIMS AND DISPUTES ARISING OUT OF OR RELATING TO THIS COMMITMENT, INCLUDING ANY SERVICE OR OTHER MATTER IN CONNECTION WITH ISSUING THIS COMMITMENT, ANY BREACH OF A COMMITMENT PROVISION, OR ANY OTHER CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THE TRANSACTION GIVING RISE TO THIS COMMITMENT, MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS OR REPRESENTATIVE PROCEEDING. ANY POLICY ISSUED PURSUANT TO THIS COMMITMENT WILL CONTAIN A CLASS ACTION CONDITION.

**11. ARBITRATION**

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Amount of Insurance is \$2,000,000 or less may be arbitrated at the election of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

**STEWART TITLE GUARANTY COMPANY**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at: Stewart Title Guaranty Company, P.O. Box 2029, Houston, Texas 77252-2029.

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**SCHEDULE A**

1. Commitment Date: **April 20, 2022, at 07:30 am**

2. Policy to be Issued:

(a) ALTA® 2021 Owner's Policy

Proposed Insured: **To Be Determined.**

Proposed Policy Amount:

(b) ALTA® 2021 Loan Policy

Proposed Insured:

Proposed Policy Amount:

<u><b>Date Down End.</b></u>	<b>\$</b>	<b>50.00</b>
Total:	<b>\$</b>	<b>50.00</b>

3. The estate or interest in the Land at the Commitment Date is: **Fee Simple**

4. The Title is, at the Commitment Date, vested in:  
**Jerry Lomax and Sharon Lomax**

5. The Land is described as follows:  
**SEE ATTACHED EXHIBIT "A"**

For Informational Purposes Only: **11750 Green Acres Lane, Colorado Springs, CO 80908**  
APN: **5215000035**

Countersigned  
Empire Title of Colorado Springs, LLC

By: *Alicia Simon*

\_\_\_\_\_  
Alicia Simon

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File No.: 85511ECS

**EXHIBIT A**

The Land is described as follows:

**The Northwest Quarter of the Northeast Quarter of the Southeast Quarter, and the West Half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 15 in Township 12 South, Range 65 West of the 6th P.M., together with an easement for a 30 foot Right-of-Way for ingress and egress from the County Road which runs Easterly and Westerly along the Southerly line of said Section 15, the Center Line of which Right-of-Way is a line extending Southerly from the Southeast corner of the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of said Section 15 to a point on the South line of, and equally distant from, the Southeast and Southwest corners of the Southeast Quarter of the Southeast Quarter of said Section 15, El Paso County, Colorado and together with an Easement and Right-of-Way for ingress and egress over the Southerly 30 feet and over the Westerly 15 feet of the Easterly 30 feet of the East half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 15 in Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado.**

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**SCHEDULE B, PART I - Requirements**

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

**NOTE: This commitment has been issued for information purposes only and there are no requirements. The liability of the Company in terms of this Commitment is limited to the charges paid for the Commitment.**

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**SCHEDULE B, PART II - Exceptions**

**Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.**

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Rights or claims of parties in possession not shown by the Public Records.
2. Easements or claims of easements not shown in the Public Records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the land would disclose, and which are not shown by the public record.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.
6. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof.
7. Any water rights or claims or title to water, in or under the land, whether or not shown by the public records.
8. Taxes due and payable; and any tax, special assessments, charge or lien imposed for water or sewer service, or for any other special taxing district. Note: Upon verification of payment of all taxes the above exception will be amended to read, "Taxes and assessments for the current year, and subsequent years, a lien not yet due and payable."

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9. Any interest which may have been acquired by the public reason of the Resolution of the Board of County Commissioners dated and recorded October 3, 1887 in Road Book A at Page 78, which provided that all section lines, township lines, and range lines on the public domain east of the range line dividing range lines 65 west and 66 west declared to be public highways of the width of 60 feet, being 30 feet on each side of said section lines, township lines, or range lines.
10. Terms, agreements, provisions, conditions, obligations and easements as contained in Grant of Right of Way to Mountain View Electric Association, Inc., recorded October 23, 1967 in Book 2205 at Page 781.
11. Terms, conditions, provisions, reservations and obligations contained in Deed recorded April 18, 1974 in Book 2670 at Page 271.
12. Terms, conditions, provisions and obligations contained in Orders from Colorado Ground Water Commission recorded June 8, 2021 at Reception No. 22111211, at Reception No. 22111212, at Reception No. 22111213, at Reception No. 22111214 and at Reception No. 22111215.
13. Any assessment or lien of Black Forest Fire Protection District.
14. Terms, conditions, provisions, reservations and obligations contained in Resolution No. 22-80 recorded March 16, 2022 at Reception No. 222037940.
15. Terms, agreements, provisions, conditions, obligations and easements as contained in Memorandum to all Interested Parties, recorded April 12, 2022 at Reception No. 222050903.

**FOR INFORMATIONAL PURPOSES ONLY:**

Deed recorded November 17, 2017 at Reception No. 217140126.

Deed recorded October 11, 2011 at Reception No. 211099130.

Deed recorded July 2, 1991 in Book 5855 at Page 1497.

Deed recorded April 18, 1974 in Book 2670 at Page 271.

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File No: 85511ECS

**Deed of Trust from Jerry Lomax and Sharon Lomax, for the use of Mortgage Electronic Registration Systems, Inc., acting solely as nominee for First National Bank of Las Animas, to secure \$485,000.00 dated December 28, 2020 recorded January 5, 2021 at Reception No. 221001275.**

***PLEASE NOTE: THIS COMMITMENT IS BEING ISSUED AS TITLE ONLY (NO ESCROW SERVICES ARE BEING PROVIDED). IF THIS COMMITMENT DOES NOT PROPERLY REFLECT YOUR ANTICIPATED TRANSACTION, PLEASE ADVISE THE TITLE OFFICER AS SOON AS POSSIBLE (CONTACT INFORMATION LOCATED ON THE TRANSMITTAL PAGE) TO MAKE THE APPROPRIATE REVISION(S)***

NOTE: The policy(s) of insurance may contain a clause permitting arbitration of claims at the request of either the Insured or the Company. Upon request, the Company will provide a copy of this clause and the accompanying arbitration rules prior to the closing of the transaction.

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## DISCLOSURES

File No.: 85511ECS

Pursuant to C.R.S. 10-11-122, notice is hereby given that:

- A. THE SUBJECT REAL PROPERTY MAY BE LOCATED IN A SPECIAL TAXING DISTRICT;
- B. A CERTIFICATE OF TAXES DUE LISTING EACH TAXING JURISDICTION SHALL BE OBTAINED FROM THE COUNTY TREASURER OR THE COUNTY TREASURER'S AUTHORIZED AGENT;
- C. INFORMATION REGARDING SPECIAL DISTRICTS AND THE BOUNDARIES OF SUCH DISTRICTS MAY BE OBTAINED FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR

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Note: Colorado Division of Insurance Regulations 8-2-2, Section 5, Paragraph G requires that "Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed." Provided that Title Company Name conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction, exception number 5 will not appear on the Owner's Title Policy and the Lender's Title Policy when issued.

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

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

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

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To comply with the provisions of C.R.S. 10-11-123, the Company makes the following disclosure:

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

**NOTE: THIS DISCLOSURE APPLIES ONLY IF SCHEDULE B, SECTION 2 OF THE TITLE COMMITMENT HEREIN INCLUDES AN EXCEPTION FOR SEVERED MINERALS.**

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**Notice of Availability of a Closing Protection Letter:** Pursuant to Colorado Division of Insurance Regulation 8-1-3, Section 5, Paragraph C (11)(f), a closing protection letter is available to the consumer.

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NOTHING HEREIN CONTAINED WILL BE DEEMED TO OBLIGATE THE COMPANY TO PROVIDE ANY OF THE COVERAGES REFERRED TO HEREIN, UNLESS THE ABOVE CONDITIONS ARE FULLY SATISFIED.

File No.: 85511ECS

CO Commitment Disclosure

## STG Privacy Notice 1 (Rev 01/26/09) Stewart Title Companies

### WHAT DO THE STEWART TITLE COMPANIES DO WITH YOUR PERSONAL INFORMATION?

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of the Stewart Title Guaranty Company and its affiliates (the Stewart Title Companies), pursuant to Title V of the Gramm-Leach-Bliley Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver's license number.

All financial companies, such as the Stewart Title Companies, need to share customers' personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers' personal information; the reasons that we choose to share; and whether you can limit this sharing.

Reasons we can share your personal information	Do we share?	Can you limit this sharing?
<b>For our everyday business purposes</b> — to process your transactions and maintain your account. This may include running the business and managing customer accounts, such as processing transactions, mailing, and auditing services, and responding to court orders and legal investigations.	Yes	No
<b>For our marketing purposes</b> — to offer our products and services to you.	Yes	No
<b>For joint marketing with other financial companies</b>	No	We don't share
<b>For our affiliates' everyday business purposes</b> — information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and nonfinancial companies. <i>Our affiliates may include companies with a Stewart name; financial companies, such as Stewart Title Company</i>	Yes	No
<b>For our affiliates' everyday business purposes</b> — information about your creditworthiness.	No	We don't share
<b>For our affiliates to market to you</b>	Yes	No
<b>For nonaffiliates to market to you.</b> Nonaffiliates are companies not related by common ownership or control. They can be financial and nonfinancial companies.	No	We don't share

We may disclose your personal information to our affiliates or to nonaffiliates as permitted by law. If you request a transaction with a nonaffiliate, such as a third party insurance company, we will disclose your personal information to that nonaffiliate.

### Sharing practices

<b>How often do the Stewart Title Companies notify me about their practices?</b>	We must notify you about our sharing practices when you request a transaction.
<b>How do the Stewart Title Companies protect my personal information?</b>	To protect your personal information from unauthorized access and use, we use security measures that comply with federal and state law. These measures include computer, file, and building safeguards.
<b>How do the Stewart Title Companies collect my personal information?</b>	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> <li>• request insurance-related services</li> <li>• provide such information to us</li> </ul> <p>We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.</p>
<b>What sharing can I limit?</b>	Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.

### Contact Us

If you have any questions about this privacy notice, please contact us at: Stewart Title Guaranty Company, 1980 Post Oak Blvd., Privacy Officer, Houston, Texas 77056

## Privacy Notice for California Residents

Pursuant to the California Consumer Privacy Act of 2018 (“CCPA”), Stewart Information Services Corporation and its subsidiary companies (collectively, “Stewart”) are providing this **Privacy Notice for California Residents** (“CCPA Notice”). This CCPA Notice supplements the information contained in Stewart’s existing privacy notice and applies solely to all visitors, users and others who reside in the State of California or are considered California Residents (“consumers” or “you”). Terms used but not defined shall have the meaning ascribed to them in the CCPA.

### Information Stewart Collects

Stewart collects information that identifies, relates to, describes, references, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer, household, or device. Most of the information that Stewart collects in the course of its regular business is already protected pursuant to the Gramm-Leach-Bliley Act (GLBA). Additionally, much of this information comes from government records or other information already in the public domain. Personal information under the CCPA does not include:

- Publicly available information from government records.
- Deidentified or aggregated consumer information.
- Certain personal information protected by other sector-specific federal or California laws, including but not limited to the Fair Credit Reporting Act (FCRA), GLBA and California Financial Information Privacy Act (FIPA).

Specifically, Stewart has collected the following categories of personal information from consumers within the last twelve (12) months:

Category	Examples	Collected?
A. Identifiers.	A real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address, email address, account name, Social Security number, driver's license number, passport number, or other similar identifiers.	YES
B. Personal information categories listed in the California Customer Records statute (Cal. Civ. Code § 1798.80(e)).	A name, signature, Social Security number, physical characteristics or description, address, telephone number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, or health insurance information. Some personal information included in this category may overlap with other categories.	YES
C. Protected classification characteristics under	Age (40 years or older), race, color, ancestry, national origin, citizenship, religion or creed, marital status, medical condition, physical or mental disability, sex (including gender, gender	YES

California or federal law.	identity, gender expression, pregnancy or childbirth and related medical conditions), sexual orientation, veteran or military status, genetic information (including familial genetic information).	
D. Commercial information.	Records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies.	YES
E. Biometric information.	Genetic, physiological, behavioral, and biological characteristics, or activity patterns used to extract a template or other identifier or identifying information, such as, fingerprints, faceprints, and voiceprints, iris or retina scans, keystroke, gait, or other physical patterns, and sleep, health, or exercise data.	YES
F. Internet or other similar network activity.	Browsing history, search history, information on a consumer's interaction with a website, application, or advertisement.	YES
G. Geolocation data.	Physical location or movements.	YES
H. Sensory data.	Audio, electronic, visual, thermal, olfactory, or similar information.	YES
I. Professional or employment-related information.	Current or past job history or performance evaluations.	YES
J. Non-public education information (per the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g, 34 C.F.R. Part 99)).	Education records directly related to a student maintained by an educational institution or party acting on its behalf, such as grades, transcripts, class lists, student schedules, student identification codes, student financial information, or student disciplinary records.	YES
K. Inferences drawn from other personal information.	Profile reflecting a person's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes.	YES

Stewart obtains the categories of personal information listed above from the following categories of sources:

- Directly and indirectly from customers, their designees or their agents (For example, realtors, lenders, attorneys, etc.)
- Directly and indirectly from activity on Stewart's website or other applications.
- From third-parties that interact with Stewart in connection with the services we provide.

#### Use of Personal Information

Stewart may use or disclose the personal information we collect for one or more of the following purposes:

- To fulfill or meet the reason for which the information is provided.

- To provide, support, personalize, and develop our website, products, and services.
- To create, maintain, customize, and secure your account with Stewart.
- To process your requests, purchases, transactions, and payments and prevent transactional fraud.
- To prevent and/or process claims.
- To assist third party vendors/service providers who complete transactions or perform services on Stewart's behalf.
- As necessary or appropriate to protect the rights, property or safety of Stewart, our customers or others.
- To provide you with support and to respond to your inquiries, including to investigate and address your concerns and monitor and improve our responses.
- To personalize your website experience and to deliver content and product and service offerings relevant to your interests, including targeted offers and ads through our website, third-party sites, and via email or text message (with your consent, where required by law).
- To help maintain the safety, security, and integrity of our website, products and services, databases and other technology assets, and business.
- To respond to law enforcement or regulator requests as required by applicable law, court order, or governmental regulations.
- Auditing for compliance with federal and state laws, rules and regulations.
- Performing services including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing advertising or marketing services or other similar services.
- To evaluate or conduct a merger, divestiture, restructuring, reorganization, dissolution, or other sale or transfer of some or all of our assets, whether as a going concern or as part of bankruptcy, liquidation, or similar proceeding, in which personal information held by us is among the assets transferred.

Stewart will not collect additional categories of personal information or use the personal information we collected for materially different, unrelated, or incompatible purposes without providing you notice.

#### Disclosure of Personal Information to Affiliated Companies and Nonaffiliated Third Parties

Stewart does not sell your personal information to nonaffiliated third parties. Stewart may share your information with those you have designated as your agent in the course of your transaction (for example, a realtor or a lender). Stewart may disclose your personal information to a third party for a business purpose. Typically, when we disclose personal information for a business purpose, we enter a contract that describes the purpose and requires the recipient to both keep that personal information confidential and not use it for any purpose except performing the contract.

We share your personal information with the following categories of third parties:

- Service providers and vendors (For example, search companies, mobile notaries, and companies providing credit/debit card processing, billing, shipping, repair, customer service, auditing, marketing, etc.)
- Affiliated Companies
- Litigation parties and attorneys, as required by law.
- Financial rating organizations, rating bureaus and trade associations.
- Federal and State Regulators, law enforcement and other government entities

In the preceding twelve (12) months, Stewart has disclosed the following categories of personal information for a business purpose:

Category A: Identifiers

Category B: California Customer Records personal information categories

Category C: Protected classification characteristics under California or federal law

Category D: Commercial Information

Category E: Biometric Information

Category F: Internet or other similar network activity

Category G: Geolocation data

Category H: Sensory data

Category I: Professional or employment-related information

Category J: Non-public education information

Category K: Inferences

### Consumer Rights and Choices

The CCPA provides consumers (California residents) with specific rights regarding their personal information. This section describes your CCPA rights and explains how to exercise those rights.

#### **Access to Specific Information and Data Portability Rights**

You have the right to request that Stewart disclose certain information to you about our collection and use of your personal information over the past 12 months. Once we receive and confirm your verifiable consumer request, Stewart will disclose to you:

- The categories of personal information Stewart collected about you.
- The categories of sources for the personal information Stewart collected about you.
- Stewart's business or commercial purpose for collecting that personal information.
- The categories of third parties with whom Stewart shares that personal information.
- The specific pieces of personal information Stewart collected about you (also called a data portability request).
- If Stewart disclosed your personal data for a business purpose, a listing identifying the personal information categories that each category of recipient obtained.

## Deletion Request Rights

You have the right to request that Stewart delete any of your personal information we collected from you and retained, subject to certain exceptions. Once we receive and confirm your verifiable consumer request, Stewart will delete (and direct our service providers to delete) your personal information from our records, unless an exception applies.

Stewart may deny your deletion request if retaining the information is necessary for us or our service providers to:

1. Complete the transaction for which we collected the personal information, provide a good or service that you requested, take actions reasonably anticipated within the context of our ongoing business relationship with you, or otherwise perform our contract with you.
2. Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal activity, or prosecute those responsible for such activities.
3. Debug products to identify and repair errors that impair existing intended functionality.
4. Exercise free speech, ensure the right of another consumer to exercise their free speech rights, or exercise another right provided for by law.
5. Comply with the California Electronic Communications Privacy Act (Cal. Penal Code § 1546 *seq.*).
6. Engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws, when the information's deletion may likely render impossible or seriously impair the research's achievement, if you previously provided informed consent.
7. Enable solely internal uses that are reasonably aligned with consumer expectations based on your relationship with us.
8. Comply with a legal obligation.
9. Make other internal and lawful uses of that information that are compatible with the context in which you provided it.

### Exercising Access, Data Portability, and Deletion Rights

To exercise the access, data portability, and deletion rights described above, please submit a verifiable consumer request to us either:

- Calling us Toll Free at 1-866-571-9270
- Emailing us at [Privacyrequest@stewart.com](mailto:Privacyrequest@stewart.com)
- Visiting <http://stewart.com/ccpa>

Only you, or someone legally authorized to act on your behalf, may make a verifiable consumer request related to your personal information. You may also make a verifiable consumer request on behalf of your minor child.

To designate an authorized agent, please contact Stewart through one of the methods mentioned above.

You may only make a verifiable consumer request for access or data portability twice within a 12-month period. The verifiable consumer request must:

- Provide sufficient information that allows us to reasonably verify you are the person about whom we collected personal information or an authorized representative.
- Describe your request with sufficient detail that allows us to properly understand, evaluate, and respond to it.

Stewart cannot respond to your request or provide you with personal information if we cannot verify your identity or authority to make the request and confirm the personal information relates to you.

Making a verifiable consumer request does not require you to create an account with Stewart.

#### Response Timing and Format

We endeavor to respond to a verifiable consumer request within forty-five (45) days of its receipt. If we require more time (up to an additional 45 days), we will inform you of the reason and extension period in writing.

A written response will be delivered by mail or electronically, at your option.

Any disclosures we provide will only cover the 12-month period preceding the verifiable consumer request's receipt. The response we provide will also explain the reasons we cannot comply with a request, if applicable. For data portability requests, we will select a format to provide your personal information that is readily useable and should allow you to transmit the information from one entity to another entity without hindrance.

Stewart does not charge a fee to process or respond to your verifiable consumer request unless it is excessive, repetitive, or manifestly unfounded. If we determine that the request warrants a fee, we will tell you why we made that decision and provide you with a cost estimate before completing your request.

#### Non-Discrimination

Stewart will not discriminate against you for exercising any of your CCPA rights. Unless permitted by the CCPA, we will not:

- Deny you goods or services.
- Charge you a different prices or rates for goods or services, including through granting discounts or other benefits, or imposing penalties.
- Provide you a different level or quality of goods or services.
- Suggest that you may receive a different price or rate for goods or services or a different level or quality of goods or services.

#### Changes to Our Privacy Notice

Stewart reserves the right to amend this privacy notice at our discretion and at any time. When we make changes to this privacy notice, we will post the updated notice on Stewart's website and update the notice's effective date. **Your continued use of Stewart's website following the posting of changes constitutes your acceptance of such changes.**

## Contact Information

If you have questions or comments about this notice, the ways in which Stewart collects and uses your information described here, your choices and rights regarding such use, or wish to exercise your rights under California law, please do not hesitate to contact us at:

**Phone:** Toll Free at 1-866-571-9270

**Website:** <http://stewart.com/ccpa>

**Email:** [Privacyrequest@stewart.com](mailto:Privacyrequest@stewart.com)

**Postal Address:** Stewart Information Services Corporation  
Attn: Mary Thomas, Deputy Chief Compliance Officer  
1360 Post Oak Blvd., Ste. 100, MC #14-1  
Houston, TX 77056

**Empire Title of Colorado Springs, LLC**  
**PRIVACY POLICY NOTICE**

**Our Commitment To You**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. We have, therefore, adopted this Privacy Policy to govern the use and handling of your personal information.

**Our Privacy Policies and Practices**

**Information we collect and sources from which we collect it:**

Depending upon the services you are utilizing, we may collect nonpublic personal information about you from the following sources:

- Information we receive from you or your representatives on applications or other forms.
- Information you or your representatives provide to us, whether in writing, in person, by telephone, electronically, or by any other means.
- Information about your transactions that we secure from our files or from our affiliates or others.
- Information that we receive from others involved in your transaction, such as the real estate agent, lender, or credit bureau.
- Information obtained through our web site, as outlined below.

**Use of information:**

- We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party.
- We will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law.
- In the course of our general business practices, we may share and reserve the right to share the information we collect, as described above, about you or others as permitted by law.

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

**Security and Confidentiality of Your Information:**

Safekeeping of your non-public personal information is a high priority. We maintain physical safeguards, such as secure areas in buildings; electronic safeguards, such as passwords and encryption; and procedural safeguards, such as customer authentication procedures. We restrict access to nonpublic personal information about you to those who need to know that information in order to provide products or services to you. We carefully select and monitor outside service providers who have access to customer information, and we require them to keep it safe and secure. We do not allow them to use or share the information for any purpose other than to perform the service for which they are engaged. We train our employees with respect to security procedures and monitor compliance therewith. We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

**Information Obtained Through Our Web Site**

We are sensitive to privacy issues on the Internet and believe it is important you know how we treat the information about you we receive on the Internet. In general, you can visit our web site on the World Wide Web without telling us who you are or revealing any information about yourself. Our web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed, and similar information. We use this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and e-mail address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order, or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

**Cookies**

Our web site may use "cookies" to improve the level of service to visitors. Cookies are lines of text that are transmitted to a web browser and stored on the visitor's hard drive. When the visitor returns to the web site the cookie is transmitted back. Cookies provide a way for a server to recall a previous request or registration, or to keep track of a transaction as it progresses, thereby eliminating the need to repeat the information previously provided. A cookie can only be accessed from the web site that placed it on the visitor's system. The cookies used by us do not collect personal identification information and we do not combine information collected through cookies with other personal information to determine a visitor's identity or e-mail address. Cookies are commonly used on web sites today and should not harm any system upon which they are transmitted. Browsers can be configured to notify visitors when cookies are about to be received and provide visitors with the option of refusing cookies.

**ALTA Commitment Form**

**COMMITMENT FOR TITLE INSURANCE**  
**Issued by**



STEWART TITLE GUARANTY COMPANY, a Texas Corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

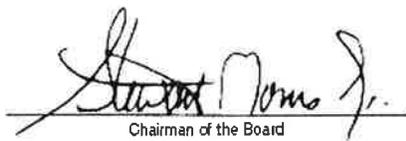
This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate six months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the Commitment upon request.

This Commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.

IN WITNESS WHEREOF, Stewart Title Guaranty Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

  
Chairman of the Board





  
President

Countersigned:

\_\_\_\_\_  
Authorized Countersignature

**Empire Title of Colorado Springs, LLC** (Company)  
5755 Mark Dabling Blvd., Suite 110  
Colorado Springs, CO

## CONDITIONS

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



All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252.



5755 Mark Dabling Blvd., Ste 110, Colorado Springs, CO 80919  
Phone: 719-884-5300 Fax: 719-884-5304

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## UNDERSTANDING YOUR TITLE COMMITMENT

### SCHEDULE A:

**No. 1: Effective date:** This is the date our title plant is certified through. There will typically be a 1-2 week gap between the certification date and the date the commitment is issued.

**No. 2A: Owner's Policy Proposed Insured:** This is how the buyer's name(s) appear(s) on the Contract, all Closing documents and your Final Title Policy. If your name is appearing incorrectly, please advise your Realtor, Builder and/or Lender.

**No. 2B: Loan Policy Proposed Insured:** This is how your lender has requested their name appear. If you are working with a Mortgage Broker, then this name may be unfamiliar to you. If a determination has not yet been made on what lender will be providing your loan, then this may appear as 'TBD' (To Be Determined). If you are paying cash for this purchase, this item will be left blank.

**Charges: Title Premiums, Endorsements and Tax Certificates:** These are fees for the items that the Company has determined may be required by your Lender and/or to meet the terms of your contract. Your lender may request additional items. This does not include any closing fees.

**No. 3: The estate or interest in the land...:** This shows the type of ownership that is going to be insured.

**No. 4: The Title is, at the Commitment Date...:** This shows the name(s) of the current owner(s).

**No. 5: The land referred to in the Commitment...:** This is the 'legal' property description for the real estate you are buying or selling.

### SCHEDULE B-SECTION 1:

These are Requirements that must be satisfied in order to provide clear title to the Buyer and/or Lender. The closer and/or processor for the Title Company, will generally take care of satisfying these requirements, however there may be times when your help will be needed as well. Some requirements will be met prior to closing, and others will be met at the time of closing.

### SCHEDULE B-SECTION 2:

These items are Exceptions to your coverage. We are telling you these items exist (whether by recordation in the County Clerk and Recorder's office or because we have knowledge of them through other means). Since these items have been disclosed to you, you will not be provided any coverage for same. Owner's Extended Coverage will delete Items 1-5 of the pre-printed items on Residential Sale Commitments, provided that the coverage was requested by contract and collected at closing. Copies of the plat and covenants will be automatically sent to the buyer and/or Selling Agent. We are happy to also provide you with copies of any other exceptions as well.

## DISCLOSURES

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Pursuant to C.R.S. 10-11-122, notice is hereby given that:

- (A) THE SUBJECT REAL PROPERTY MAY BE LOCATED IN A SPECIAL TAXING DISTRICT;
- (B) A CERTIFICATE OF TAXES DUE LISTING EACH TAXING JURISDICTION SHALL BE OBTAINED FROM THE COUNTY TREASURER OR THE COUNTY TREASURER'S AUTHORIZED AGENT;
- (C) INFORMATION REGARDING SPECIAL DISTRICTS AND THE BOUNDARIES OF SUCH DISTRICTS MAY BE OBTAINED FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR

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Note: Colorado Division of Insurance Regulations 3-5-1, Paragraph C of Article VII requires that "Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed." Provided that Empire Title of Colorado Springs, LLC conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction, exception number 5 will not appear on the Owner's Title Policy and the Lender's Title Policy when issued.

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

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

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

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To comply with the provisions of C.R.S. 10-11-123, the Company makes the following disclosure:

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

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**NOTE: THIS DISCLOSURE APPLIES ONLY IF SCHEDULE B, SECTION 2 OF THE TITLE COMMITMENT HEREIN INCLUDES AN EXCEPTION FOR SEVERED MINERALS.**

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NOTHING HEREIN CONTAINED WILL BE DEEMED TO OBLIGATE THE COMPANY TO PROVIDE ANY OF THE COVERAGES REFERRED TO HEREIN, UNLESS THE ABOVE CONDITIONS ARE FULLY SATISFIED.

# **Empire Title of Colorado Springs, LLC**

## **PRIVACY POLICY NOTICE**

### **Our Commitment To You**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. We have, therefore, adopted this Privacy Policy to govern the use and handling of your personal information.

### **Our Privacy Policies and Practices**

#### **Information we collect and sources from which we collect it:**

Depending upon the services you are utilizing, we may collect nonpublic personal information about you from the following sources:

- Information we receive from you or your representatives on applications or other forms.
- Information you or your representatives provide to us, whether in writing, in person, by telephone, electronically, or by any other means.
- Information about your transactions that we secure from our files or from our affiliates or others.
- Information that we receive from others involved in your transaction, such as the real estate agent, lender, or credit bureau.
- Information obtained through our web site, as outlined below.

#### **Use of information:**

- We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party.
- We will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law.
- In the course of our general business practices, we may share and reserve the right to share the information we collect, as described above, about you or others as permitted by law.

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

#### **Security and Confidentiality of Your Information:**

Safekeeping of your non-public personal information is a high priority. We maintain physical safeguards, such as secure areas in buildings; electronic safeguards, such as passwords and encryption; and procedural safeguards, such as customer authentication procedures. We restrict access to nonpublic personal information about you to those who need to know that information in order to provide products or services to you. We carefully select and monitor outside service providers who have access to customer information, and we require them to keep it safe and secure. We do not allow them to use or share the information for any purpose other than to perform the service for which they are engaged. We train our employees with respect to security procedures and monitor compliance therewith. We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

#### **Information Obtained Through Our Web Site**

We are sensitive to privacy issues on the Internet and believe it is important you know how we treat the information about you we receive on the Internet. In general, you can visit our web site on the World Wide Web without telling us who you are or revealing any information about yourself. Our web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed, and similar information. We use this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and e-mail address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order, or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

#### **Cookies**

Our web site may use “cookies” to improve the level of service to visitors. Cookies are lines of text that are transmitted to a web browser and stored on the visitor’s hard drive. When the visitor returns to the web site the cookie is transmitted back. Cookies provide a way for a server to recall a previous request or registration, or to keep track of a transaction as it progresses, thereby eliminating the need to repeat the information previously provided. A cookie can only be accessed from the web site that placed it on the visitor’s system. The cookies used by us do not collect personal identification information and we do not combine information collected through cookies with other personal information to determine a visitor’s identity or e-mail address. Cookies are commonly used on web sites today and should not harm any system upon which they are transmitted. Browsers can be configured to notify visitors when cookies are about to be received and provide visitors with the option of refusing cookies.

## STG Privacy Notice 1 (Rev 01/26/09) Stewart Title Companies

### WHAT DO THE STEWART TITLE COMPANIES DO WITH YOUR PERSONAL INFORMATION?

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of the Stewart Title Guaranty Company and its affiliates (the Stewart Title Companies), pursuant to Title V of the Gramm-Leach-Bliley Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver's license number.

All financial companies, such as the Stewart Title Companies, need to share customers' personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers' personal information; the reasons that we choose to share; and whether you can limit this sharing.

Reasons we can share your personal information	Do we share?	Can you limit this sharing?
<b>For our everyday business purposes</b> — to process your transactions and maintain your account. This may include running the business and managing customer accounts, such as processing transactions, mailing, and auditing services, and responding to court orders and legal investigations.	Yes	No
<b>For our marketing purposes</b> — to offer our products and services to you.	Yes	No
<b>For joint marketing with other financial companies</b>	No	We don't share
<b>For our affiliates' everyday business purposes</b> — information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and nonfinancial companies. <i>Our affiliates may include companies with a Stewart name; financial companies, such as Stewart Title Company</i>	Yes	No
<b>For our affiliates' everyday business purposes</b> — information about your creditworthiness.	No	We don't share
<b>For our affiliates to market to you</b>	Yes	No
<b>For nonaffiliates to market to you.</b> Nonaffiliates are companies not related by common ownership or control. They can be financial and nonfinancial companies.	No	We don't share

We may disclose your personal information to our affiliates or to nonaffiliates as permitted by law. If you request a transaction with a nonaffiliate, such as a third party insurance company, we will disclose your personal information to that nonaffiliate.

### Sharing practices

<b>How often do the Stewart Title Companies notify me about their practices?</b>	We must notify you about our sharing practices when you request a transaction.
<b>How do the Stewart Title Companies protect my personal information?</b>	To protect your personal information from unauthorized access and use, we use security measures that comply with federal and state law. These measures include computer, file, and building safeguards.
<b>How do the Stewart Title Companies collect my personal information?</b>	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> <li>• request insurance-related services</li> <li>• provide such information to us</li> </ul> <p>We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.</p>
<b>What sharing can I limit?</b>	Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.

### Contact Us

If you have any questions about this privacy notice, please contact us at: Stewart Title Guaranty Company, 1980 Post Oak Blvd., Privacy Officer, Houston, Texas 77056

Transcript from: Road Book A Page 78  
Road Order Dated October 3, 1887  
Recorded 3:00 p.m. October 3, 1887

Board of County Commissioners

To

El Paso County, Colorado

State of Colorado }  
County of El Paso } ss.

At a regular meeting of the Board of County Commissioners for El Paso County, Colorado, held at the County Clerk's Office in Colorado Springs on Monday, October 3, 1887, there were present J. C. Woodbury, Chairman, L.C. Skinner; David McShane, commissioners; E.J. Eaton, Clerk; when the following proceedings, among others, were held and done, to-wit:

In accordance with the provisions of an Act passed by the General Assembly of the State of Colorado, Session 1885, entitled "An Act to Amend Section IV of Chapter XCV of the General Statutes of the State of Colorado, entitled 'Roads and Highways'", it was ordered by the Board that all Section lines, Township lines and Range lines on the public domain East of the Range line dividing Ranges 65 W. and 66 W., be and the same are hereby declared Public Highways of the width of 60 feet, being 30 feet on each side of said Section lines, Township lines or Range lines, as the case may be, the same being in El Paso County, Colorado.

J. C. Woodbury, Chairman

Dated: October 3rd, 1887  
Attest: E.J. Eaton, County Clerk  
(official seal)



THIS DEED, Made this 16th day of April, 1974,  
between I. J. Frazier and Ida M. Frazier  
of the County of El Paso and state of  
Colorado, of the first part, and  
of the County of El Paso and state of  
Colorado, of the second part,

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of  
ONE ----- DOLLARS,  
to the said parties of the first part in hand paid by the said party of the second part, the receipt whereof  
is hereby confessed and acknowledged, have remised, released, sold conveyed and QUIT CLAIMED, and by  
these presents do remise, release, sell, convey and QUIT CLAIM unto the said part of the second part,  
heirs, successors and assigns, forever, all the right, title, interest, claim and demand which the said  
parties of the first part have in and to the following described lot or parcel of land situate, lying and  
being in the County of El Paso and State of Colorado, to wit:

All interests in the minerals, oil and gas on, in and under  
The West half of the Northeast Quarter of the Southeast  
Quarter of Section 15, Township 12 South, Range 65 West, El  
Paso County, Colorado

STATE DOCUMENTARY  
APR 18 1974

P.F.F. \$ none

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto  
belonging or in anywise thereto appertaining, and all the estate, right, title, interest and claim whatsoever, of the  
said parties of the first part, either in law or equity, to the only proper use, benefit and behoof of the said  
part of the second part, heirs and assigns forever.  
IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hand s  
and seal s the day and year first above written.

Signed, Sealed and Delivered in the Presence of  
I. J. Frazier [SEAL]  
Ida M. Frazier [SEAL]  
\_\_\_\_\_[SEAL]  
\_\_\_\_\_[SEAL]

STATE OF COLORADO,  
County of El Paso } ss.

The foregoing instrument was acknowledged before me this 16th day of April,  
1974, by I. J. Frazier and Ida M. Frazier  
My commission expires Dec. 13, 1975. Witness my hand and official seal.

David L. Skeld  
Notary Public.

Min. Rights sec.



\*If by natural person or persons here insert name or names; if by person acting in representative or official capacity or as attorney-in-fact, then insert name of person or persons so acting; if by other capacity or association; if by officer of any corporation, then insert name of such officer or officers, as the president or other officers of such corporation, naming it.—Statutory Provisions, Sec. 111-4-1, Colorado Revised Statutes 1973.  
No. 528. QUIT CLAIM DEED.—Revised Publishing Co., 1214-46 Stout Street, Denver, Colorado—7-71

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

**IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN  
THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN**

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DETERMINATION NO.: 3666-BD

AQUIFER: Arapahoe

APPLICANT: Jerry and Sharon Lomax

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In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Jerry and Sharon Lomax (hereinafter "Applicant") submitted an application for determination of water right to designated ground water from the Arapahoe Aquifer.

**FINDINGS**

1. The application was received by the Colorado Ground Water Commission on October 12, 2018.
2. The Applicant requests a determination of right to designated ground water in the Arapahoe Aquifer (hereinafter "Aquifer") underlying 15 acres, generally described as the NW 1/4 of the NE 1/4 of the SE 1/4 and the W 1/2 of the SW 1/4 of the NE 1/4 of the SE 1/4, Section 15, Township 12 South, Range 65 West, Sixth P.M., in El Paso County. According to a signed Ownership Statement dated October 7, 2018, attached hereto as Exhibit A, the Applicant owns the 15 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic including in home use, lawn and garden irrigation and domestic animal watering; agricultural; irrigation indoor and outdoor; commercial; recreation, including indoor pool; piscatorial including piscatorial associated with a pond; and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 15 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 15 acres of Overlying Land claimed by the applicant is 638 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:

Determination No.: 3666-BD

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Aquifer: Arapahoe

Applicant: Jerry and Sharon Lomax

- a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.
  - b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 250 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 6.38 acre-feet per year.
  9. A review of the records in the Office of the State Engineer has disclosed that none of the Underlying Ground Water in the Aquifer beneath the Overlying Land has been previously allocated or permitted for withdrawal.
  10. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
  11. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable Aquifer may be less than the one hundred years upon which the amount of water in the Aquifer is allocated, due to anticipated water level declines.
  12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the Aquifer underlying the land claimed by the Applicant will not, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the Underlying Ground Water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. Pursuant to the Rules, no more than 98% of the amount of the Underlying Ground Water withdrawn annually shall be consumed.
  13. On February 8, 2019, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. On March 13, 2019 the District submitted a comment letter with written recommendations for this determination of water rights and the Ground Water Commission has considered those comments.
  14. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on February 14, 2019 and February 21, 2019. No objections to the application were received within the time limit set by statute.

#### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to

Determination No.: 3666-BD  
Aquifer: Arapahoe  
Applicant: Jerry and Sharon Lomax

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designated ground water in the Arapahoe Aquifer underlying 15 acres of land, generally described as the NW 1/4 of the NE 1/4 of the SE 1/4 and the W 1/2 of the SW 1/4 of the NE 1/4 of the SE 1/4, Section 15, Township 12 South, Range 65 West, Sixth P.M., further described in Exhibit A, is approved subject to the following conditions:

15. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 6.38 acre-feet.
16. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 638 acre-feet.
17. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
18. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
19. The Applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
20. No more than 98% of the allowed amount of Underlying Ground Water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the underlying ground water withdrawn is being consumed.
21. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic including in home use, lawn and garden irrigation and domestic animal watering; agricultural; irrigation indoor and outdoor; commercial; recreation, including indoor pool; piscatorial including piscatorial associated with a pond; and replacement. The place of use shall be limited to the above described 15 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission. The ground water right determined herein is located within the Upper Black Squirrel Creek Ground Water Management District where local District rules apply which may further limit the withdrawal and use of the subject designated ground water.
22. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).
23. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:

Determination No.: 3666-BD  
 Aquifer: Arapahoe  
 Applicant: Jerry and Sharon Lomax

Page 4

- a. The wells must be located on the above described 15 acres of Overlying Land.
  - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.
  - c. The wells must be constructed to withdraw water from only the Arapahoe Aquifer.
  - d. The entire depth of each well must be geophysically logged prior to installing the casing as forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission and the Upper Black Squirrel Creek Ground Water Management District upon request.
  - f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.
24. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 15 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.
25. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

Dated this 29th day of April, 2019.

By:   
 Kevin G. Rein, P.E.  
 Executive Director  
 Colorado Ground Water Commission

  
 Keith Vander Horst, P.E.  
 Chief of Water Supply, Basins

Prepared by: aat  
 F&O3666-BD.doc

**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN  
THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN

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DETERMINATION NO.: 3667-BD

AQUIFER: Denver

APPLICANT: Jerry and Sharon Lomax

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In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Jerry and Sharon Lomax (hereinafter "Applicant") submitted an application for determination of water right to designated ground water from the Denver Aquifer.

**FINDINGS**

1. The application was received by the Colorado Ground Water Commission on October 12, 2018.
2. The Applicant requests a determination of right to designated ground water in the Denver Aquifer (hereinafter "Aquifer") underlying 15 acres, generally described as the NW 1/4 of the NE 1/4 of the SE 1/4 and the W 1/2 of the SW 1/4 of the NE 1/4 of the SE 1/4, Section 15, Township 12 South, Range 65 West, Sixth P.M., in El Paso County. According to a signed Ownership Statement dated October 7, 2018, attached hereto as Exhibit A, the Applicant owns the 15 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic including in home use, lawn and garden irrigation and domestic animal watering; agricultural; irrigation indoor and outdoor; commercial; recreation, including indoor pool; piscatorial including piscatorial associated with a pond; and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 15 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 15 acres of Overlying Land claimed by the applicant is 829 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:

Determination No.: 3667-BD  
Aquifer: Denver  
Applicant: Jerry and Sharon Lomax

Page 2

- a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 17 percent.
  - b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 325 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 8.29 acre-feet per year.
  9. A review of the records in the Office of the State Engineer has disclosed that none of the Underlying Ground Water in the Aquifer beneath the Overlying Land has been previously allocated or permitted for withdrawal.
  10. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
  11. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable Aquifer may be less than the one hundred years upon which the amount of water in the Aquifer is allocated, due to anticipated water level declines.
  12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the Aquifer underlying the land claimed by the Applicant will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the Underlying Ground Water is considered to be not-nontributary ground water. Also, the location of the land claimed by the Applicant is farther than one mile from the Aquifer contact with the alluvium. Pursuant to the Rules, at least four percent (4%) of the amount of the underlying water withdrawn annually must be returned to the uppermost aquifer in the vicinity of the permitted point or points of withdrawal, unless other locations are approved by the Commission.
  13. On February 8, 2019, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. On March 13, 2019 the District submitted a comment letter with written recommendations for this determination of water rights and the Ground Water Commission has considered those comments.
  14. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on February 14, 2019 and February 21, 2019. No objections to the application were received within the time limit set by statute.

ORDER

Determination No.: 3667-BD  
Aquifer: Denver  
Applicant: Jerry and Sharon Lomax

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In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to designated ground water in the Denver Aquifer underlying 15 acres of land, generally described as the NW 1/4 of the NE 1/4 of the SE 1/4 and the W 1/2 of the SW 1/4 of the NE 1/4 of the SE 1/4, Section 15, Township 12 South, Range 65 West, Sixth P.M., further described in Exhibit A, is approved subject to the following conditions:

15. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 8.29 acre-feet.
16. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 829 acre-feet.
17. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
18. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
19. The Applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
20. At least four percent (4%) of the allowed amount of Underlying Ground Water withdrawn annually must be returned to the uppermost aquifer in the vicinity of the permitted point or points of withdrawal, unless other locations are approved by the Commission.
21. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic including in home use, lawn and garden irrigation and domestic animal watering; agricultural; irrigation indoor and outdoor; commercial; recreation, including indoor pool; piscatorial including piscatorial associated with a pond; and replacement. The place of use shall be limited to the above described 15 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission. The ground water right determined herein is located within the Upper Black Squirrel Creek Ground Water Management District where local District rules apply which may further limit the withdrawal and use of the subject designated ground water.
22. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).

Determination No.: 3667-BD  
Aquifer: Denver  
Applicant: Jerry and Sharon Lomax

Page 4

23. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:
- a. The wells must be located on the above described 15 acres of Overlying Land.
  - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.
  - c. The wells must be constructed to withdraw water from only the Denver Aquifer.
  - d. The entire depth of each well must be geophysically logged prior to installing the casing as forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission and the Upper Black Squirrel Creek Ground Water Management District upon request.
  - f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.
24. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 15 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.
25. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

Determination No.: 3667-BD  
Aquifer: Denver  
Applicant: Jerry and Sharon Lomax

Page 5

Dated this 29th day of April, 2019.

By: *Kevin G. Rein*

Kevin G. Rein, P.E.  
Executive Director  
Colorado Ground Water Commission

*Keith Vander Horst*

Keith Vander Horst, P.E.  
Chief of Water Supply, Basins

Prepared by: aat  
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**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR REPLACEMENT PLAN TO ALLOW THE WITHDRAWAL OF GROUND WATER FROM THE DAWSON AQUIFER IN THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN

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REPLACEMENT PLAN - DETERMINATION OF WATER RIGHT NO. 3668-BD

AQUIFER: DAWSON

APPLICANT: JERRY AND SHARON LOMAX

---

In compliance with Section 37-90-107.5, CRS, and the Designated Basin Rules, 2 CCR 410-1 ("Rules" or "Rule"), Jerry and Sharon Lomax ("Applicant") submitted an application for a replacement plan to allow the withdrawal of ground water from the Dawson Aquifer in accordance with Determination of Water Right No. 3668-BD.

**FINDINGS**

1. Pursuant to Section 37-90-107(7), CRS, in a Findings and Order dated April 22, 2019, the Ground Water Commission ("Commission") approved a Determination of Water Right, no. 3668-BD, for the Dawson Aquifer ("Aquifer"), summarized as follows.
  - a. The determination quantified an amount of water from beneath 15 acres of overlying land generally described as the NW 1/4 of the NE 1/4 of the SE 1/4 and the W 1/2 of the SW 1/4 of the NE 1/4 of the SE 1/4, Section 15, Township 12 South, Range 65 West, Sixth P.M., in El Paso County.
  - b. The total volume of underlying ground water that may be withdrawn from the Aquifer shall not exceed 1,060 acre-feet and the allowed average annual amount of ground water that may be withdrawn from the Aquifer shall not exceed 10.6 acre-feet.
  - c. The use of the allowed amount of underlying ground water shall be limited to the following beneficial uses: domestic including in home use, lawn and garden irrigation and domestic animal watering; agricultural; irrigation indoor and outdoor, including green house irrigation; commercial; recreation, including indoor pool; piscatorial including piscatorial associated with a pond; and replacement.
  - d. In accordance with Rule 5.3.6 the withdrawal of the subject ground water will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal, the ground water is considered to be not-nontributary, and Commission approval of a replacement plan providing for actual depletion of affected alluvial aquifers and adequate to prevent any material injury to existing water rights in such alluvial aquifers is required prior to approval of well permits for wells to withdraw the subject ground water.
2. The subject water is Designated Ground water located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Commission has jurisdiction.
3. Withdrawal of the subject ground water would deplete the alluvial aquifer of the Kiowa-Bijou Designated Ground Water Basin and the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin, both of which, according to Rules 5.2.4.2 and 5.2.6.2, respectively, have been determined to be over appropriated. Such depletion

Replacement Plan - Determination of Water Right no. 3668-BD  
Aquifer: Upper Dawson  
Applicant: Jerry and Sharon Lomax

Page 2

would unreasonably impair existing alluvial rights withdrawing water from those alluvial aquifers.

4. Pursuant to Rule 5.6.1 this plan must be adequate to prevent any material injury to water rights of other appropriators, which for purposes of this plan means large capacity wells withdrawing water from the alluvial aquifer of the Kiowa-Bijou Designated Ground Water Basin and the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin.
5. Pursuant to Rule 5.3.6.2(C) the amount of replacement water shall provide for the depletion of alluvial water for the first 100 years due to all previous pumping and if pumping continues beyond 100 years, shall replace actual impact until pumping ceases.
6. The subject application for the replacement plan was received by the Commission on October 29, 2018.
7. The Applicant proposes to divert 3.5 acre-feet annually from the Dawson Aquifer for a period of 300 years. The Dawson aquifer water will be withdrawn through three wells to be located on three lots. The Dawson aquifer wells are proposed to divert a combined total of 3.5 acre-feet of water annually for household use inside three single family dwellings, irrigation of lawn and gardens, watering of domestic animals, greenhouse irrigation, piscatorial/pond, recreation, agricultural, replacement and commercial.
8. At a continuous withdrawal of 3.5 acre-feet annually for 300 years, total depletions to the alluvial aquifer systems of the Kiowa-Bijou Designated Ground Water Basin and Upper Black Squirrel Creek Designated Ground Water Basin would steadily increase to 0.113 acre-feet per year in the 300th year, which is equal to 3.22% of pumping, as shown in Exhibit A.
9. The Applicant proposes to provide 0.18 acre-feet per year of replacement water to the alluvial aquifer system of the Upper Black Squirrel Creek Designated Ground Water Basin. The proposed source of replacement water is septic and leaching field return flows from the in-house use of the ground water to be pumped under the plan. The Applicant estimates that return flows from each lot will consist of 90% of the water used for in-house purposes. Assuming each lot uses a total annual amount for in-house use of 0.20 acre-feet, the return flow per lot would be 0.18 acre-feet annually, and the return flows under the plan will total 0.54 acre-feet per year for all three lots at full build out.
10. The subject property is located within the drainage of Black Squirrel Creek, and the return flows will flow to the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin. The Applicant proposes to aggregate all replacements to the drainage in which the well or wells will operate, in accordance with Guideline 2007-1.
11. So long as the septic and leaching treatment systems for the in-house use of the water are constructed and operated in compliance with state and county health department standards the plan would not cause unreasonable impairment of water quality of the alluvial aquifer.
12. Records in this office indicate that the Applicant controls the water right to be used as the source of replacement water, consisting of Determination of Water Right No. 3668-BD.
13. In accordance with Rule 5.6.2 the application was referred to the Upper Black Squirrel Creek Ground Water Management District on February 8, 2019 requesting written

Replacement Plan - Determination of Water Right no. 3668-BD  
 Aquifer: Upper Dawson  
 Applicant: Jerry and Sharon Lomax

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recommendations concerning this application. On March 13, 2019 the District submitted a comment letter with written recommendations for this determination of water rights and the Ground Water Commission has considered those comments.

14. In accordance with Sections 37-90-107.5 and 37-90-112, CRS, the application was published in the Ranchland News newspaper on February 14, 2019 and February 21, 2019. No objections to the application were received within the time limit set by statute.
15. The Commission Staff has evaluated the application pursuant to Section 37-90-107.5, CRS, and the requirements of Rule 5.3.6.2(C) and Rule 5.6.
16. According to Rule 5.6.2 of the Designated Basin Rules:
  - a. The Applicant has the burden of proving the adequacy of the plan in all respects.
  - b. The Commission Staff shall propose any additional terms and conditions or limitations which are necessary to prevent material injury and to ensure that the plan is administrable and enforceable.
17. Based on the above, no material injury will occur to the water rights of large capacity wells producing from the alluvial aquifer of the Kiowa-Bijou Designated Ground Water Basin and the alluvial aquifer of the Upper Black Squirrel Creek Designated Ground Water Basin, due to diversions from the Dawson Aquifer, if operated under this replacement plan, subject to the conditions given below.

#### ORDER

In accordance with Section 37-90-107.5, CRS, and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for a replacement plan to allow the withdrawal of ground water from the Dawson Aquifer underlying 15 acres that are the subject of Determination of Water Right no. 3668-BD is approved subject to the following conditions:

18. The Dawson Aquifer water will be withdrawn through three wells to be located on three lots. The allowed use of ground water for the wells under this plan is household use inside three single family dwellings, irrigation of lawn and gardens, watering of domestic animals, greenhouse irrigation, piscatorial/pond, recreation, agricultural, replacement and commercial
19. The allowed annual amount of ground water to be withdrawn from the aquifer by all wells operating under this plan shall not exceed 3.5 acre-feet.
20. A totalizing flow meter shall be installed on each well. The well owner shall maintain the meter in good working order.
21. Permanent records of all withdrawals of ground water from each well shall be recorded at least annually by the well owners, permanently maintained, and provided to the Commission and the Upper Black Squirrel Creek Ground Water Management District upon request.
22. Pumping under this plan is limited to a period of 300 years. The year of first use of this replacement plan shall be the calendar year of construction of a well permitted pursuant to this plan or permitting of an existing well pursuant to the plan.

Replacement Plan - Determination of Water Right no. 3668-BD  
Aquifer: Upper Dawson  
Applicant: Jerry and Sharon Lomax

Page 4

23. Return flows from in-house use of ground water shall occur through individual on-lot non-evaporative septic systems located within the 15 acres of overlying land that are the subject of Determination of Water Right No. 3668-BD.
24. The septic systems must be constructed and operated to state and county health department standards.
25. Replacement of depletions must be provided annually in the acre-feet amounts shown in Exhibit A. Annual replacement requirements may be computed by pro-rating between the values given on Exhibit A, or for simplicity may be taken as the amount shown in the next succeeding 5 year increment.
26. The Applicant or their successor(s) are responsible for ensuring that replacement water is provided to the alluvial aquifer as required by this plan, and that the replacement prevents any material injury to the water rights of other appropriators. The annual replacement requirement and the annual amount of replacement water provided shall be calculated and reported on a form acceptable to the Commission. The annual amount of replacement water provided must be no less than the annual replacement requirement on a yearly basis. No credit shall be claimed by the Applicant for an oversupply of replacement water provided to the alluvium during previous years.
27. The Applicant must provide the required annual amount of replacement water for the first 100 years, or for as long as a well is operated pursuant to this plan, whichever is longer.
28. To assure adequate return flows, at least one well must be serving an occupied single-family dwelling that is generating return flows via a non-evaporative septic system before any other use is allowed to be served by any of the wells.
29. So long as at least one well continues to pump and supply an occupied dwelling, the plan's required replacement obligations, shown in Exhibit A, will be met. Should all wells cease pumping for in-house use within the first 100 years an amended or alternate replacement plan must be obtained that will make the required replacement deliveries.
30. The Applicant or their successor(s) must gather, record and maintain permanent records of all information pertaining to operation of this plan, which shall include, but is not be limited to, those items identified below. The Applicant must submit records to the Commission and the Upper Black Squirrel Creek Ground Water Management District on forms acceptable to the Commission, on an annual basis for the previous calendar year, by February 15<sup>th</sup> of the following year.
  - a. Identification of all well permits issued and wells constructed under this plan.
  - b. The amount of water diverted by each well and all wells in total, both annually and cumulatively since operation of the plan began.
  - c. The number of occupied dwellings served by each well.
  - d. The return flows occurring from use of all wells operating under the plan, assuming 0.18 acre-feet per year per occupied dwelling (90% of the water used for in-house purposes) enters the alluvial aquifer as replacement water.
  - e. Any other information the Commission deems relevant and necessary to operation, monitoring, accounting, or administration of the plan.

Replacement Plan - Determination of Water Right no. 3668-BD  
 Aquifer: Upper Dawson  
 Applicant: Jerry and Sharon Lomax

Page 5

31. The Applicant or their successor(s) are fully responsible for the operation, monitoring, and accounting of the replacement plan. In the event a lot with a well permitted or operating pursuant to this plan is sold, evidence of the sale and notification to the new owner of their responsibility under the replacement plan shall accompany that year's accounting.
32. Any covenants adopted for this subdivision should contain a description of the replacement plan, including the limitations on water use for each lot, metering of well pumping, and how the plan is to be administered.
33. In the event the permitted well or wells are not operated in accordance with the conditions of this replacement plan, they shall be subject to administration, including orders to cease diverting ground water.
34. All terms and conditions of Determination of Water Right No. 3668-BD must be met.
35. Pursuant to Designated Basin Rule 5.6.1(F), the Commission retains jurisdiction to modify or revoke approval of this replacement plan if monitoring or operating experience reveals that the plan results in any material injury to water rights of other appropriators or unreasonable impairment to water quality.
36. A copy of this Findings and Order shall be recorded by the Applicant in the real property records of El Paso County, so that a title examination of the above described property, or any part thereof, shall reveal to all future purchasers the existence of this replacement plan. The terms and conditions of this replacement plan shall be considered to be a covenant on and running with the subject property.

Dated this Dated this 29th day of April, 2019.

By:   
 Kevin G. Rein, P.E.  
 Executive Director  
 Colorado Ground Water Commission

  
 Keith Vander Horst, P.E.  
 Chief of Water Supply, Basins

F&ORP3668-BD.docx  
 Prepared by: aat

**WHEN RECORDED, RETURN TO:**  
MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC.  
11140 E. WOODMEN ROAD, FALCON, CO 80831

---

**MEMORANDUM TO ALL INTERESTED PARTIES**

Mountain View Electric Association, Inc., a Colorado rural electric cooperative (“Co-op”), is providing notice to all owners or other persons with an interest in the real property commonly known as 11750 Green Acres Lane, Colorado Springs, Colorado 80908 and legally described in the Electric Easement, described below, in the County of El Paso (the “Property”), in accordance with Colorado Revised Statute, Title 40, Article 15, Part 6 (the “Easements Statute”).<sup>1</sup>

Co-op has been granted a Right of Way Easement across the Property, dated 4/1/2022 and recorded at Reception No. 222045985 in the Office of the Clerk and Recorder of El Paso County, Colorado (the “Electric Easement”). A single phase electric distribution line is currently located in the Electric Easement. Pursuant to the Easements Statute, Co-op has the following rights:

(1) With regard to real property subject to an electric easement, if an electric utility, or any commercial broadband supplier designated by the electric utility to act on its behalf, complies with the notice and filing requirements set forth in subsection (2) of this section, the electric utility holding the electric easement may, subject to subsection (4) of this section and without the consent of an interest holder in the real property subject to the electric easement, take the following actions to the extent not already permitted by the electric easement:

(a) Install, maintain, or own, or permit any commercial broadband supplier, including a broadband affiliate, to install, maintain, or own, an attached facility for operation by a commercial broadband supplier, including a broadband affiliate, in providing commercial broadband service; and

(b) Lease or otherwise provide to a commercial broadband supplier, including a broadband affiliate, any excess capacity of attached facilities for purposes of providing commercial broadband service.<sup>2</sup>

Co-op is notifying all owners or other persons with an interest in the Property that it will be exercising its rights under both subsections 1(a) and 1(b) of C.R.S. § 40-15-602. Co-op mailed a notice to the owners of record of the Property on April 6, 2022.

The terms of this Memorandum shall run with the Property and shall be binding upon and inure to the benefit of current and future owners of the Property and their successors and assigns and Co-op and its successors and assigns.

If you have any questions or comments for Co-op, please direct them to David Waldner, Manager of Engineering, at the following address or telephone number:

MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC.  
11140 E. WOODMEN ROAD, FALCON, CO 80831  
Toll Free: (800) 388-9881

---

<sup>1</sup> C.R.S. § 40-15-601, *et.al.*

<sup>2</sup> C.R.S. § 40-15-602(1)

Recording requested by:

Jerry and Sharon Lomax  
1295 Kelly Johnson Blvd, Ste. 280  
Colorado Springs, CO 80920

and when recorded, please return this deed  
and tax statements to:

WAYNE W. WILLIAMS El Paso County, CO

10/11/2011 03:57:47 PM

Doc \$37.00 Page

Rec \$16.00 1 of 2



211099130

Above reserved for official use only

## GENERAL WARRANTY DEED

THE GRANTOR: Dianne Richardson (a  married  unmarried individual) whose address is 2597 Sparks Road County of Wright, State of MO FOR A VALUABLE CONSIDERATION, in the amount of \$370,000.00 in hand and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby CONVEYS and WARRANTS to Jerry and Sharon Lomax ("Grantee"), whose address is 11750 Green Acres Lane County of El Paso, State of Colorado all right, title, interest and claim to the following real estate in the City of Colorado Springs, County of El Paso, State of Colorado with the following legal description:

11750 Green Acres Lane, Colorado Springs, CO 80909

Legal Description: N2W2NE4SE4, W2S2W2NE4SE4, W/MR SEC 15-12-65

(if applicable) The above-described property was, prior to this conveyance, occupied by the Grantor as his home.

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the above described property unto the said Grantee, Grantee's heirs, administrators, executors, successors and/or assigns forever IN FEE SIMPLE; so that neither Grantor nor Grantor's heirs, administrators, executors, successors and/or assigns shall have, claim or demand any right or title to the aforesaid property, premises or appurtenances or any part thereof.

Grantor further WARRANTS and agrees to FOREVER DEFEND all and singular the said property unto the said Grantee, Grantee's heirs, executors, administrators, successors and/or assigns, against every person whomsoever claiming or to claim the same or any part thereof.

EXECUTED this day of Oct 9, 20 11

[Signature]

Dianne Richardson  
Type or print name

State of COLORADO )  
County of El Paso ) ss

The foregoing instrument was acknowledged before me this 9 day of October, 20 11, by \_\_\_\_\_  
If acknowledgment is taken by a notary public, the date of expiration of his commission shall also appear on the certificate.

Witness my hand and official seal.



[Signature]  
Signature of Notary Public

Jason R. Wisler  
Printed Name of Notary

My commission expires on 12-15, 20 13.

NAME & ADDRESS OF PREPARER OF LEGAL  
PROPERTY DESCRIPTION (IF DESCRIPTION IS  
NEWLY CREATED):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



7 2 1991

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91 JUL -2 PM 3:06

W A BRIDGES WYSCHEFF D  
EL PASO COUNTY CLERK & RECORDER

RUR PRNF  
5855 1.497

KNOW ALL MEN BY THESE PRESENTS, THAT,

ANN WESLEY PENN,

of the County of El Paso and State of COLORADO for the consideration of

One dollar and other good and valuable consideration ( \$1.00 ) dollars in

hand paid hereby sell and convey to DIANNE J. RICHARDSON,

whose legal address is 11750 GREEN ACRES LANE, BLACK FOREST, COLORADO

80908

of the County of El Paso and State of COLORADO the following Real

Property situated in the County of El Paso and State of Colorado, to wit:

7-35

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER,  
AND THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF  
THE SOUTHEAST QUARTER OF SECTION 15 IN TOWNSHIP 12 SOUTH, RANGE 65 WEST  
OF THE 6TH P.M., TOGETHER WITH AN EASEMENT FOR A 30 FOOT RIGHT-OF-WAY FOR  
INGRESS AND EGRESS FROM THE COUNTY ROAD WHICH RUNS EASTERLY AND WESTERLY  
ALONG THE SOUTHERLY LINE OF SAID SECTION 15, THE CENTER LINE OF WHICH  
RIGHT-OF-WAY IS A LINE EXTENDING SOUTHERLY FROM THE SOUTHEAST CORNER OF THE  
NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF  
SAID SECTION 15 TO A POINT ON THE SOUTH LINE OF, AND EQUALLY DISTANT FROM,  
THE SOUTHEAST AND SOUTHWEST CORNERS OF THE SOUTHEAST QUARTER OF THE  
SOUTHEAST QUARTER OF SAID SECTION 15, EL PASO COUNTY, COLORADO AND TOGETHER  
WITH AN EASEMENT AND RIGHT-OF-WAY FOR INGRESS AND EGRESS OVER THE  
SOUTHERLY 30 FEET AND OVER THE WESTERLY 15 FEET OF THE EASTERLY 30 FEET OF THE  
EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE  
SOUTHEAST QUARTER OF SECTION 15 IN TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH  
P.M., EL PASO COUNTY, COLORADO.

with all its appurtenances and warrant(s) the title to the same,  
subject to any conditions, covenants, restrictions, easements,  
rights of way, reservations of record, if any, and general taxes  
assessments for 1991 and subsequent years.

STATE DOCUMENTARY

JUL -2 1991

Signed and delivered this 26 TH day of JUNE, 1991

FEE 735

Ann Wesley Penn  
ANN WESLEY PENN

STATE OF CALIFORNIA

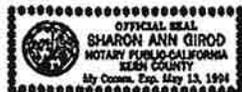
County of Kern

by ANN WESLEY PENN,

} SS The forgoing instrument was acknowledged  
before me this 26 TH day of JUNE, 1991

Witness my hand and official seal,  
My commission expires May 13, 1994

Sharon Ann Girod  
NOTARY PUBLIC



**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

**IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN  
THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN**

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DETERMINATION NO.: 3668-BD

AQUIFER: Dawson

APPLICANT: Jerry and Sharon Lomax

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In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Jerry and Sharon Lomax (hereinafter "Applicant") submitted an application for determination of water right to designated ground water from the Dawson Aquifer.

**FINDINGS**

1. The application was received by the Colorado Ground Water Commission on October 12, 2018.
2. The Applicant requests a determination of right to designated ground water in the Dawson Aquifer (hereinafter "Aquifer") underlying 15 acres, generally described as the NW 1/4 of the NE 1/4 of the SE 1/4 and the W 1/2 of the SW 1/4 of the NE 1/4 of the SE 1/4, Section 15, Township 12 South, Range 65 West, Sixth P.M., in El Paso County. According to a signed Ownership Statement dated October 7, 2018, attached hereto as Exhibit A, the Applicant owns the 15 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic including in home use, lawn and garden irrigation and domestic animal watering; agricultural; irrigation indoor and outdoor; commercial; recreation, including indoor pool; piscatorial including piscatorial associated with a pond; and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 15 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 15 acres of Overlying Land claimed by the applicant is 1,060 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:

Determination No.: 3668-BD

Page 2

Aquifer: Dawson

Applicant: Jerry and Sharon Lomax

- a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 20 percent.
  - b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 355 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 10.6 acre-feet per year.
  9. A review of the records in the Office of the State Engineer has disclosed that none of the Underlying Ground Water in the Aquifer beneath the Overlying Land has been previously allocated or permitted for withdrawal.
  10. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
  11. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable Aquifer may be less than the one hundred years upon which the amount of water in the Aquifer is allocated, due to anticipated water level declines.
  12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the Aquifer underlying the land claimed by the Applicant will, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the Underlying Ground Water is considered to be not-nontributary ground water. Withdrawal of water from the Aquifer underlying the claimed land area would impact the alluvial aquifer(s) of Black Squirrel Creek or its tributaries, which has been determined to be over-appropriated. Commission approval of a replacement plan pursuant to Section 37-90-107.5, C.R.S., and Rule 5.6 of the Designated Basin Rules, providing for the actual depletion of the alluvial aquifer and adequate to prevent any material injury to existing water rights, is required prior to approval of well permits for wells to be located on this land area to withdraw the Underlying Ground Water from the Aquifer.
  13. On February 8, 2019, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. On March 13, 2019 the District submitted a comment letter with written recommendations for this determination of water rights and the Ground Water Commission has considered those comments.
  14. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on February 14, 2019 and February 21, 2019. No objections to the application were received within the time limit set by statute.

Determination No.: 3668-BD  
Aquifer: Dawson  
Applicant: Jerry and Sharon Lomax

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### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to designated ground water in the Dawson Aquifer underlying 15 acres of land, generally described as the NW 1/4 of the NE 1/4 of the SE 1/4 and the W 1/2 of the SW 1/4 of the NE 1/4 of the SE 1/4, Section 15, Township 12 South, Range 65 West, Sixth P.M., further described in Exhibit A, is approved subject to the following conditions:

15. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 10.6 acre-feet.
16. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 1,060 acre-feet.
17. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
18. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
19. The Applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
20. Commission approval of a replacement plan, providing for actual depletion of affected alluvial aquifers and adequate to prevent any material injury to existing water rights in such alluvial aquifers, is required prior to approval of well permits that allow the withdraw of the Underlying Ground Water.
21. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic including in home use, lawn and garden irrigation and domestic animal watering; agricultural; irrigation indoor and outdoor; commercial; recreation, including indoor pool; piscatorial including piscatorial associated with a pond; and replacement. The place of use shall be limited to the above described 15 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission. The ground water right determined herein is located within the Upper Black Squirrel Creek Ground Water Management District where local District rules apply which may further limit the withdrawal and use of the subject designated ground water.

Determination No.: 3668-BD  
Aquifer: Dawson  
Applicant: Jerry and Sharon Lomax

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22. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).
23. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:
  - a. The wells must be located on the above described 15 acres of Overlying Land.
  - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.
  - c. The wells must be constructed to withdraw water from only the Dawson Aquifer.
  - d. The entire depth of each well must be geophysically logged prior to installing the casing as forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission and the Upper Black Squirrel Creek Ground Water Management District upon request.
  - f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.
24. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 15 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.
25. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

Determination No.: 3668-BD  
Aquifer: Dawson  
Applicant: Jerry and Sharon Lomax

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Dated this 29th day of April, 2019.

By:   
Kevin G. Rein, P.E.  
Executive Director  
Colorado Ground Water Commission

  
Keith Vander Horst, P.E.  
Chief of Water Supply, Basins

Prepared by: aat  
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**COLORADO GROUND WATER COMMISSION  
FINDINGS AND ORDER**

IN THE MATTER OF AN APPLICATION FOR DETERMINATION OF WATER RIGHT TO GROUND WATER IN  
THE UPPER BLACK SQUIRREL CREEK DESIGNATED GROUND WATER BASIN

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DETERMINATION NO.: 3665-BD

AQUIFER: Laramie-Fox Hills

APPLICANT: Jerry and Sharon Lomax

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In compliance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, 2 CCR 410-1, Jerry and Sharon Lomax (hereinafter "Applicant") submitted an application for determination of water right to designated ground water from the Laramie-Fox Hills Aquifer.

**FINDINGS**

1. The application was received by the Colorado Ground Water Commission on October 12, 2018.
2. The Applicant requests a determination of right to designated ground water in the Laramie-Fox Hills Aquifer (hereinafter "Aquifer") underlying 15 acres, generally described as the NW 1/4 of the NE 1/4 of the SE 1/4 and the W 1/2 of the SW 1/4 of the NE 1/4 of the SE 1/4, Section 15, Township 12 South, Range 65 West, Sixth P.M., in El Paso County. According to a signed Ownership Statement dated October 7, 2018, attached hereto as Exhibit A, the Applicant owns the 15 acres of land, which are further described in said Ownership Statement (hereinafter "Overlying Land"), and claims control of the right to the ground water in the Aquifer underlying this land (hereinafter "Underlying Ground Water").
3. The Overlying Land is located within the boundaries of the Upper Black Squirrel Creek Designated Ground Water Basin and within the Upper Black Squirrel Creek Ground Water Management District. The Colorado Ground Water Commission (hereinafter "Commission") has jurisdiction over the ground water that is the subject of this Determination.
4. The Commission Staff has evaluated the application relying on the claims to control of the Underlying Ground Water in the Aquifer made by the Applicant.
5. The Applicant intends to apply the Underlying Ground Water to the following beneficial uses: domestic including in home use, lawn and garden irrigation and domestic animal watering; agricultural; irrigation indoor and outdoor; commercial; recreation, including indoor pool; piscatorial including piscatorial associated with a pond; and replacement. The Applicant's proposed place of use of the Underlying Ground Water is the above described 15 acres of overlying land.
6. The application requests the maximum allowable annual amount of Underlying Ground Water from beneath the Overlying Land.
7. The quantity of water in the Aquifer underlying the 15 acres of Overlying Land claimed by the applicant is 416 acre-feet. This determination was based on the following as specified in the Designated Basin Rules:

Determination No.: 3665-BD  
Aquifer: Laramie-Fox Hills  
Applicant: Jerry and Sharon Lomax

Page 2

- a. The average specific yield of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 15 percent.
  - b. The average thickness of the saturated permeable material of the Aquifer beneath the Overlying Land that could yield a sufficient quantity of water that may be extracted and applied to beneficial use is 185 feet.
8. Pursuant to Section 37-90-107(7)(a), C.R.S., and in accordance with the Designated Basin Rules, the Commission shall allocate the underlying ground water based on ownership of the overlying land and an aquifer life of one hundred years. Should the entire quantity of underlying ground water identified above be available for allocation, the allowed average annual amount of withdrawal from the Aquifer that could be allocated from beneath the Overlying Land would be 4.16 acre-feet per year.
  9. A review of the records in the Office of the State Engineer has disclosed that none of the Underlying Ground Water in the Aquifer beneath the Overlying Land has been previously allocated or permitted for withdrawal.
  10. Pursuant to Section 37-90-107(7)(c)(III), C.R.S., an approved determination of water right shall be considered a final determination of the amount of ground water so determined; except that the Commission shall retain jurisdiction for subsequent adjustment of such amount to conform to the actual local aquifer characteristics from adequate information obtained from well drilling or test holes.
  11. The ability of wells permitted to withdraw the authorized amount of water from this non-renewable Aquifer may be less than the one hundred years upon which the amount of water in the Aquifer is allocated, due to anticipated water level declines.
  12. In accordance with Rule 5.3.6 of the Designated Basin Rules, it has been determined that withdrawal of ground water from the Aquifer underlying the land claimed by the Applicant will not, within one hundred years, deplete the flow of a natural stream or its alluvial aquifer at an annual rate greater than one-tenth of one percent of the annual rate of withdrawal and, therefore, the Underlying Ground Water is nontributary ground water as defined in Rule 4.2.19 of the Designated Basin Rules. Pursuant to the Rules, no more than 98% of the amount of the Underlying Ground Water withdrawn annually shall be consumed.
  13. On February 8, 2019, in accordance with Rule 9.1 of the Designated Basin Rules, a letter was sent to the Upper Black Squirrel Creek Ground Water Management District requesting written recommendations concerning this application. On March 13, 2019 the District submitted a comment letter with written recommendations for this determination of water rights and the Ground Water Commission has considered those comments.
  14. In accordance with Sections 37-90-107(7)(c)(II) and 37-90-112, C.R.S., the application was published in the Ranchland News newspaper on February 14, 2019 and February 21, 2019. No objections to the application were received within the time limit set by statute.

#### ORDER

In accordance with Section 37-90-107(7), C.R.S., and the Designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of right to

Determination No.: 3665-BD  
Aquifer: Laramie-Fox Hills  
Applicant: Jerry and Sharon Lomax

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designated ground water in the Laramie-Fox Hills Aquifer underlying 15 acres of land, generally described as the NW 1/4 of the NE 1/4 of the SE 1/4 and the W 1/2 of the SW 1/4 of the NE 1/4 of the SE 1/4, Section 15, Township 12 South, Range 65 West, Sixth P.M., further described in Exhibit A, is approved subject to the following conditions:

15. The allowed average annual amount of withdrawal of Underlying Ground Water from the Aquifer shall not exceed 4.16 acre-feet.
16. The total volume of Underlying Ground Water that may be withdrawn from the Aquifer pursuant to this Determination of Water Right shall not exceed 416 acre-feet.
17. The Commission may adjust the total volume and the allowed average annual amount of withdrawal of Underlying Ground Water that may be withdrawn from the Aquifer to conform to actual Aquifer characteristics based on analysis of geophysical logs or other site-specific data if such analysis indicates that the initial estimate of the amount of Underlying Ground Water in the Aquifer was incorrect.
18. The allowed maximum annual amount of withdrawal may exceed the allowed average annual amount of withdrawal as long as the total volume of Underlying Ground Water withdrawn does not exceed the product of the number of years since the date of approval of this determination times the allowed average annual amount of withdrawal.
19. The Applicant may pump the allowed average annual amount of withdrawal and the allowed maximum annual amount of withdrawal from one or more wells of a well field in any combination, so long as the total combined withdrawal of the wells does not exceed the amounts described in this Order.
20. No more than 98% of the allowed amount of Underlying Ground Water withdrawn annually shall be consumed. The Commission may require well owners to demonstrate periodically that no more than 98% of the underlying ground water withdrawn is being consumed.
21. The use of the allowed amount of Underlying Ground Water from this allocation shall be limited to the following beneficial uses: domestic including in home use, lawn and garden irrigation and domestic animal watering; agricultural; irrigation indoor and outdoor; commercial; recreation, including indoor pool; piscatorial including piscatorial associated with a pond; and replacement. The place of use shall be limited to the above described 15 acres of Overlying Land. The ground water that is the subject of this Determination may be reused and successively used to extinction to the extent dominion and control over the water is maintained and its volume can be distinguished from the volume of any stream system into which it is introduced to the satisfaction of the Commission. The ground water right determined herein is located within the Upper Black Squirrel Creek Ground Water Management District where local District rules apply which may further limit the withdrawal and use of the subject designated ground water.
22. Approval of this determination meets the requirements of Section 37-90-107(7)(d)(II) that requires a determination of ground water be made prior to the granting of a well permit pursuant to Section 37-90-107(7).
23. Wells withdrawing the allowed amount of Underlying Ground Water allocated herein are subject to the following conditions:

Determination No.: 3665-BD  
 Aquifer: Laramie-Fox Hills  
 Applicant: Jerry and Sharon Lomax

Page 4

- a. The wells must be located on the above described 15 acres of Overlying Land.
  - b. No well shall be located within 600 feet of any existing large-capacity well in the same Aquifer unless a Waiver of Claim of Injury is obtained from the owner of the existing well or unless the Commission, after a hearing, finds that circumstances in a particular instance warrant that a well may be permitted without regard to this limitation.
  - c. The wells must be constructed to withdraw water from only the Laramie-Fox Hills Aquifer.
  - d. The entire depth of each well must be geophysically logged prior to installing the casing as forth in Rule 9 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7.
  - e. A totalizing flow meter or other Commission approved measuring device shall be installed on each well and maintained in good working order by the well owner. Annual diversion records shall be collected and permanently maintained by the well owner and submitted to the Commission and the Upper Black Squirrel Creek Ground Water Management District upon request.
  - f. The well shall be marked in a conspicuous place with this determination number, the well permit number, and the name of the Aquifer. The well owner shall take necessary means and precautions to preserve these markings.
24. A copy of this Findings and Order shall be recorded by the Applicant in the public records of the county in which the Overlying Land is located so that a title examination of the above described 15 acres of Overlying Land area, or any part thereof, shall reveal the existence of this determination.
25. The ground water right determined herein is a vested property right with specific ownership. The ground water right may be transferred independent of the land under which the right originated. Any action taken that is intended to convey, transfer, and/or sell the subject water right shall explicitly identify this Determination of Water Right number, the specific aquifer, and the annual volume (based on a 100-year aquifer life) or total volume of ground water that is being conveyed.

Dated this 29th day of April, 2019.

By: *Kevin G. Rein*  
 Kevin G. Rein, P.E.  
 Executive Director  
 Colorado Ground Water Commission

*Keith Vander Horst*  
 Keith Vander Horst, P.E.  
 Chief of Water Supply, Basins

Prepared by: aat  
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Rec \$0.00

El Paso County, CO  
  
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**RESOLUTION NO. 22- 80**

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO**

**APPROVE TREASURED ACRES SUBDIVISION FILING NO. 1  
(MS-21-009)**

**WHEREAS**, Jerry and Sharon Lomax did file an application with the El Paso County Planning and Community Development Department for the approval of a final plat for the Treasured Acres Subdivision Filing No. 1 for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

**WHEREAS**, a public hearing was held by the El Paso County Planning Commission on March 3, 2022, upon which date the Planning Commission did by formal resolution recommend approval of the final plat application; and

**WHEREAS**, a public hearing was held by the El Paso County Board of County Commissioners on March 15, 2022; and

**WHEREAS**, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.

5. The subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is in substantial conformance with the approved preliminary plan.
7. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of El Paso County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.
8. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(1)] and the requirements of Chapter 8 of the Land Development Code.
9. A public sewage disposal system has been established or, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of the Land Development Code.
10. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].
11. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and Engineering Criteria Manual.
12. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.
13. Final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
14. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Land Development Code.
15. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or

are financially guaranteed through the Subdivision Improvements Agreement so the impacts of the subdivision will be adequately mitigated.

16. The subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
17. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et. seq.].
18. The proposed subdivision of land conforms to the El Paso County Zoning Resolutions.
19. For the above-stated and other reasons, the proposed subdivision is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

**NOW, THEREFORE, BE IT RESOLVED** the Board of County Commissioners of El Paso County, Colorado, hereby approves the final plat application for the Treasured Acres Subdivision Filing No. 1;

**BE IT FURTHER RESOLVED** that the following conditions and notations shall be placed upon this approval:

**CONDITIONS**

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The applicant shall submit the Mylar to Enumerations for addressing.

- 5. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.**
- 6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.**
- 7. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.**
- 8. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.**
- 9. The subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.**
- 10. Drainage fees in the amount of \$3,515.00 and bridge fees in the amount of \$644.00 shall be paid for the Falcon drainage basin (CHWS1400) at the time of plat recordation. Drainage fees in the amount of \$1,346.00 and bridge fees in the amount of \$734.00 shall be paid for the Sand Creek drainage basin (FOFO4000) at the time of plat recordation.**
- 11. Park fees in lieu of land dedication for regional parks (Area 2) in the amount of \$1,380.00 shall be paid at the time of plat recordation.**

12. Fees in lieu of school land dedication in the amount of \$918.00 shall be paid to El Paso County for the benefit of Academy School District No. 20 at the time of plat recording.
13. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.

**NOTATIONS**

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.
3. The existing accessory structures as identified in ADM-21-039 are not considered nonconforming and shall be subject to the dimensional standards as outlined in the Land Development Code and any setback encroachments shall be corrected through the appropriate process prior to issuance of building permits on Lot 1.

**AND BE IT FURTHER RESOLVED** that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 15<sup>th</sup> day of March, 2022, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By: \_\_\_\_\_

County Clerk & Recorder



By: \_\_\_\_\_  
Chair

*Stan W. VanderWeef*

**EXHIBIT A**

**LEGAL DESCRIPTION**

The Northwest Quarter and the Northeast Quarter of the Southeast Quarter, and the West Half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 15, Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, together with an easement for a 30 foot Right-of-Way for ingress and egress from the County Road which runs Easterly and Westerly along the Southerly line of said Section 15, the Centerline of which Right-of-Way is a line extending Southerly from the Southeast corner of the Northeast Quarter of the Southeast Quarter of the Southeast Quarter of said Section 15 to a point on the South line of, and equally distant from, the Southeast and Southwest corners of the Southeast Quarter of the Southeast Quarter of said Section 15, El Paso County, Colorado and together with an Easement and Right-of-Way for ingress and egress over the Southerly 30 feet and over the Westerly 15 feet of the Easterly 30 feet of the East half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 15 in Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado. More particularly described:

Commencing at the East Quarter corner of said Section 15; thence S.88°58'56"W.coincident with the East West centerline of said Section 15, a distance of 667.84 feet to the POINT OF BEGINNING of a parcel of land described herein; thence S.00°31'09"E. coincident with the East line of the West 1/2 of the NE1/4 SE1/4 of said Section 15, a distance of 660.40 feet; thence S.89°01'00"W.coincident with the South line of the N1/2 of the E1/2 of the W1/2 NE1/4 SE1/4 of said Section 15, a distance of 333.97 feet; thence S.00°30'43"E. coincident with the East line of the S1/2 of the W1/2 NE1/4 SE1/4 of said Section 15, a distance of 660.20 feet; thence S.89°03'06"W. coincident with the South line of the W1/2 NE1/4 SE1/4 of said Section 15, a distance of 334.00 feet; thence N.00°30'35"W. coincident with the West line of the W1/2 NE1/4 SE1/4 of said Section 15, a distance of 1320.00 feet; thence N.88°58'56"E. coincident with the North line of the W1/2 NE1/4 SE1/4 of said Section 15, a distance of 667.84 feet to the POINT OF BEGINNING.  
Containing 661,384.46 square feet or 15.1833 acres, more or less.

WARRANTY DEED

THIS DEED, made this 13th day of November, 2017, between Dianna J. Richardson of the County of El Paso and State of Colorado, grantor(s), and Jerry Lomax and Sharon Lomax whose legal address is 11750 Green Acres Lane, Colorado Springs, CO 80908

of the County of El Paso and State of Colorado, grantees:

WITNESS, that the grantor(s), for and in consideration of the sum of TEN DOLLARS AND 00/100 (\$10.00), AND OTHER GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the grantees, their heirs and assigns forever, JOINT TENANTS, all the real property, together with improvements, if any, situate, lying and being in the County of El Paso and State of Colorado, described as follows:

\*CORRECTION DEED REQUIRED BECAUSE THE LEGAL DESCRIPTION WAS NOT PROPERLY STATED ON THE DEED RECORDED OCTOBER 11, 2011 AT RECEPTION NO. 211099130

The Northwest Quarter of the Northeast Quarter of the Southeast Quarter, and the West Half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 15 in Township 12 South, Range 65 West of the 6th P.M., together with an easement for a 30 foot Right-of-Way for ingress and egress from the County Road which runs Easterly and Westerly along the Southerly line of said Section 15, the Center Line of which Right-of-Way is a line extending Southerly from the Southeast corner of the Northwest Quarter of the Northeast Quarter of the Southeast Quarter of said Section 15 to a point on the South line of, and equally distant from, the Southeast and Southwest corners of the Southeast Quarter of the Southeast Quarter of said section 15, El Paso County, Colorado and together with an Easement and Right-of-Way for ingress and egress over the Southerly 30 feet and over the Westerly 15 feet of the Easterly 30 feet of the East half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 15 in Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado.

also known by street and number as: 11750 Green Acres Lane, Colorado Springs, CO 80908

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the grantees, their heirs and assigns forever. The grantor(s), for himself, his heirs, and personal representatives, does covenant, grant, bargain and agree to and with the grantees, their heirs and assigns, that at the time of the encasing and delivery of these presents, he is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except general taxes for the current year and subsequent years, and except easements, covenants, conditions, restrictions, reservations, and rights of way of record, if any.

The grantor(s) shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantees, their heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.

The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

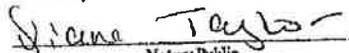
IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

  
Dianna J. Richardson

State of MISSOURI }  
County of WRIGHT } ss. *Douglas*

The foregoing instrument was acknowledged before me this November 14, 2017, by Dianna J. Richardson.

My Commission expires: 9-4-19

Witness my hand and official seal.  
  
Diane Taylor  
Notary Public

Doc Fee: \$0.00



After Recording Return To:  
Crescent Mortgage Company  
Post Closing Department  
6600 Peachtree Dunwoody Rd. NE, 600  
Embassy Row, Suite 650  
Atlanta, GA 30328

Prepared By:  
Daphne Y. Johnson, VP  
6600 Peachtree Dunwoody Rd. NE, 600  
Embassy Row, Suite 650  
Atlanta, GA 30328

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**DEED OF TRUST**

MIN: 1002976-3000134650-5  
Loan #: 3000134650

**DEFINITIONS**

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated **December 28, 2020**, together with all Riders to this document.
- (B) "Borrower" is **Jerry Lomax and Sharon Lomax as Husband and Wife**. Borrower is the trustor under this Security Instrument.
- (C) "Lender" is **First National Bank of Las Animas**. Lender is a Bank organized and existing under the laws of **THE STATE OF COLORADO**. Lender's address is **535 Bent Avenue, Las Animas, CO 81054**.
- (D) "Trustee" is the Public Trustee of **EL PASO** County, Colorado.
- (E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the beneficiary under this Security Instrument**. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.
- (F) "Note" means the promissory note signed by Borrower and dated **December 28, 2020**. The Note states that Borrower owes Lender **FOUR HUNDRED EIGHTY FIVE THOUSAND AND NO/100** Dollars (U.S. **\$485,000.00**) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **January 01, 2051**.
- (G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
- (H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.
- (I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

Adjustable Rate Rider  Condominium Rider  Second Home Rider



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Balloon Rider                     Planned Unit Development Rider     VA Rider  
 1-4 Family Rider                     Biweekly Payment Rider                     Other(s) [specify]

(J) **"Applicable Law"** means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) **"Community Association Dues, Fees, and Assessments"** means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) **"Electronic Funds Transfer"** means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) **"Escrow Items"** means those items that are described in Section 3.

(N) **"Miscellaneous Proceeds"** means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) **"Mortgage Insurance"** means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) **"Periodic Payment"** means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) **"RESPA"** means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) **"Successor in Interest of Borrower"** means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

#### TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower, in consideration of the debt and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the COUNTY of EL PASO:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND BY THIS REFERENCE MADE PART HEREOF



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**Tax Parcel No.: 5215000035**

which currently has the address of **11750 Green Acres Lane, Colorado Springs, Colorado 80908** ("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender, including, but not limited to, releasing and cancelling this Security Instrument.

**BORROWER COVENANTS** that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record and liens for taxes for the current year not yet due and payable.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**UNIFORM COVENANTS.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.**

Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making



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payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all Insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency,



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Instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.



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If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall



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not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's Interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately



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designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such Insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

**(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.**

**(b) Any such agreements will not affect the rights Borrower has – if any – with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.**

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous



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Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in



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exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall



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be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior



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notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. **Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any



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obligation on Lender for an Environmental Cleanup.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Lender shall mail a copy of the notice to Borrower as provided in Section 15. Trustee shall record a copy of the notice in the county in which the Property is located. Trustee shall publish a notice of sale for the time and in the manner provided by Applicable Law and shall mail copies of the notice of sale in the manner prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's certificate describing the Property and the time the purchaser will be entitled to Trustee's deed. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

**23. Release.** Upon payment of all sums secured by this Security Instrument, Lender shall request that Trustee release this Security Instrument and shall produce for Trustee, duly cancelled, all notes evidencing debts secured by this Security Instrument. Trustee shall release this Security Instrument without further inquiry or liability. Borrower shall pay any recordation costs and the statutory Trustee's fees.

**24. Waiver of Homestead.** Borrower waives all right of homestead exemption in the Property:



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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Jerry Lomax  
Borrower - Jerry Lomax

(Seal) Sharon K Lomax (Seal)  
Borrower - Sharon Lomax

[Space Below This Line For Acknowledgment]

State of ~~Colorado~~ CA

County Orange

The foregoing Instrument was acknowledged before me this 28 day of December, 2020

by Jerry Lomax and Sharon Lomax

WITNESS my hand and official seal.

Title of Officer: Notary Public

My commission expires: 3/5/22

Signature [Signature] (Seal)

Origination Company: **First National Bank of Las Animas**  
NMLSR ID: **402960**  
Originator: **Walisky Mrs., Anna Maria**  
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**EXHIBIT "A"**

The Northwest Quarter of the Northeast Quarter of the Southeast Quarter, and the West Half of the Southeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 15 in Township 12 South, Range 65 West of the 6th P.M., together with an easement for a 30 foot Right-of-Way for ingress and egress from the County Road which runs Easterly and Westerly along the Southerly line of Said Section 15, the center Line of which Right-of-Way is a Line Extending Southerly From the Southeast Corner of the Northwest Quarter of the Northeast Quarter of the Southeast Quarter of said Section 15 to a Point on the South line of, and equally distant from, the Southeast and Southwest Corners of the Southeast Quarter of the Southeast Quarter of said Section 15, El Paso County, Colorado and Together with an Easement and Right-of-Way for ingress and Egress Over the Southerly 360 feet and Over the Westerly 15 feet of the Easterly 3 feet of the East half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 15 in Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado.

Also known by street address as: 11750 Green Acres Lane, Colorado Springs, CO  
80908-4122



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