



VACANT LAND EXCHANGE AGREEMENT

(Executed in Two (2) Originals)

For and in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, El Paso County by and through the Board of County Commissioners of El Paso County, Colorado, (hereinafter "County"), whose address is 27 E. Vermijo Avenue, Colorado Springs, CO 80903, and BAN, LLC, a Colorado limited liability company authorized to transact business in Colorado (hereinafter "Grantor"), whose address is 1816 N. Marksheffel Road, Colorado Springs, CO 80951-9714, hereby enter into this Vacant Land Exchange Agreement (hereinafter "Agreement"). The County and Grantor may be referred to individually as a Party or collectively as the Parties.

1. Purpose of Agreement/Marksheffel Road Improvement Project: The County, in cooperation and consultation with the Constitution Heights Metropolitan District (hereinafter "District") and the Pikes Peak Rural Transportation Authority (hereinafter "PPRTA"), is in the process of designing road improvements that include the widening of Marksheffel Road. In order for the improvements to be completed it is necessary for additional right of way and easements to be acquired along Marksheffel Road. The transaction set forth herein will facilitate the acquisition of such additional right of way and easements.

2. Identification of Grantor's Property: Grantor owns commercial property on the west side of Marksheffel Road located at 1816 Marksheffel Road North, Colorado Springs, El Paso County, Colorado. The property that the County desires to acquire is part of a larger parcel, the larger parcel is referenced by its El Paso County tax schedule number 5405000006, and the larger parcel shall be hereinafter referred to herein as the Subject Property:

- a. The County desires to acquire the following part of the Subject Property in fee simple: a parcel containing 14,735 square feet or 0.3383 acres, more or less, which property is described more particularly on the legal description attached hereto as Exhibit A, Parcel Number 01, Description, Right of Way Dedication, and as illustrated on the engineered drawing attached hereto as Exhibit B, Sketch, Parcel 01 Right of Way, the property depicted on these exhibits will be referred to hereinafter as the Right of Way Property.
- b. The County desires to acquire the following part of the Subject Property as a non-exclusive permanent utility easement for the use and benefit of Mountain View Electric Association, as described with more particularity on the legal description attached hereto as Exhibit A, Permanent Easement Number PE-01, Non-Exclusive Permanent Utility Easement, and as illustrated on the engineered drawing attached hereto as Exhibit B, Sketch, Non Exclusive Permanent Easement PE-01, the property depicted on these exhibits will be referred to hereinafter as the Permanent Easement Property.

- c. The County desires to acquire the following part of the Subject Property as a non-exclusive temporary construction easement, which easement is described with more particularity on the legal description attached hereto as Exhibit A, Temporary Easement Number TE-01, Non-Exclusive Temporary Construction Easement, and as illustrated on the engineered drawing attached hereto as Exhibit B, Sketch, Non Exclusive Temporary Easement TE-01, the property depicted on these exhibits will be referred to hereinafter as the Temporary Construction Easement Property.
- d. The County desires to acquire the following part of the Subject Property as a non-exclusive easement appurtenant, which easement is described with more particularity on the legal description attached hereto as Exhibit A, Permanent Drainage Easement, and as illustrated on the engineered drawing attached hereto as Exhibit B, Permanent Drainage Easement. The easement shall be for the purpose of installing, constructing, inspecting, maintaining and repairing a drainage way, which drainage way shall not be limited to receive drainage only from the benefitted (appurtenant) estate, which benefitted estate may include an adjacent property, said adjacent property being referred to herein by its El Paso County tax schedule number 5405000048, but which may include drainage from other properties, provided that the drainage way shall be designed, installed, constructed, repaired and maintained so as to contain any such drainage arising from a 100-year event within the bounds of the easement. The easement shall contain a covenant that the owner of the servient estate shall not be responsible for the costs of installation, construction, inspection, maintenance and repair of the drainage way. However, such covenant shall not preclude the servient estate from incurring such obligations in the event the servient estate completes a land use process that requires the creation or dedication of an easement for similar purposes.

3. Other Consideration for Grantor: As other good and valuable consideration, and as condition precedent to Grantor's obligation to perform its promises under this Agreement, the County agrees to perform the following, which shall occur on or before Closing to Grantor's satisfaction or, if Grantor so consents in writing at Closing, then Grantee shall perform any of the following as a post closing obligation, the satisfactory performance of which Grantor may determine in the sole exercise of its discretion.

- a. The County shall acquire in fee simple from the owner of an adjacent property being referred to herein by its El Paso County tax schedule number 5405000048, the following property, and on or before closing convey said property to Grantor by means of a good and acceptable Special Warranty Deed and according to provisions of this Agreement pertaining to closing of the transaction: a parcel containing 20,956 square feet or 0.48 acres, more or less, which property is described with more

particularity on the legal description attached hereto as Exhibit A, Special Warranty Deed and as illustrated on the engineered drawing attached hereto as Exhibit B, Special Warranty Deed, the property depicted on these exhibits being referred to hereinafter as the Exchange Property. To the extent the County is not so able to acquire the Exchange Property, but is able to satisfy all other conditions precedent to its obligation to close, the County shall pay Grantor for the real estate interests that it desires to acquire from Grantor, and Grantor shall sell said real estate interest for public right of way purposes to the County, for the amount of \$61,048. The Parties do not require an additional appraisal as an obligation to close as both Parties agree that the purchase price was determined in an appraisal prepared by a duly qualified eminent domain appraisal, licensed and in good standing in the state of Colorado. The amount paid hereunder shall be in addition to the amount of special damages to be paid pursuant to Section 4, below.

- b. The County shall acquire from the owner of an adjacent property, said adjacent property being referred to herein by its El Paso County tax schedule number 5405000048, a non-exclusive easement appurtenant for ingress and egress purposes over that part of said adjacent property containing 4000 square feet or 0.09 acres, more or less, which property is described with more particularity on the legal description attached hereto as Exhibit A, Access Easement and as illustrated on the engineered drawing attached hereto as Exhibit B, Access Easement, the property depicted on these exhibits may be referred to herein as the Access Easement. In addition, in the event the County is not able to acquire the Exchange Property as set forth in Section 3(a), above, and therefore purchases the property for public right of way purposes from Grantor for the amount of \$61,048 as set forth in Section 3(a), above, the County shall acquire from the owner of El Paso County tax schedule number 5405000048 an additional non-exclusive, easement appurtenant for ingress and egress purposes over that part of the Exchange Property containing 1990 square feet or 0.046 acres, more or less, which property is described more particularity on the legal description attached hereto as Exhibit A, Access Easement – Exchange Property and as illustrated on the engineered drawing attached hereto as Exhibit B, Access Easement – Exchange Property.
- c. Prior to permanently closing off Grantor's property from direct access to Marksheffel Road, the County shall construct, as a post-closing obligation under this Agreement, adjacent to said Access Easement a full movement intersection at the intersection of Marksheffel Road and Colorado Tech Drive. The foregoing covenants do not prohibit the County from constructing a temporary access to Grantor's property. Such temporary access will be coordinated with the Grantor. The Access Easement shall merge into, and shall immediately cease to be a legally binding and

enforceable instrument by operation of law upon the area occupied by the access easement becoming dedicated and accepted for public road right-of-way by means of the recording of a subdivision plat that contains the appropriate formalities for the dedication and acceptance thereof, and the easement shall provide that the owner thereof consents to the land underlying the Access Easement being dedicated for public road right-of-way without any further instrument or consent being required.

- d. Grantor agrees and understands that it will take the property and easement conveyed to Grantor under subsections a. and b., above, subject to a reservation therein of a non-exclusive easement appurtenant that shall permit the owner of the property referenced by El Paso County tax schedule number 5405000048 to enter upon the property for the purpose of providing grading, said grading to occur only in connection with Grantor's construction of Colorado Tech Drive. Grantor agrees and understands that it shall also take the property subject to a reservation therein of a non-exclusive easement in gross for all reasonable and necessary purposes associated with the location of utility lines therein. The easement shall not exceed ten feet (10') wide and shall run the entire southern boundary of the subject property.
4. The County, on or before closing, shall pay Grantor the sum of \$134,205. This amount represents the amount of special damages Grantor estimates it would incur in the event this matter proceeded to acquisition by eminent domain. Grantor shall have discretion to use the proceeds as it deems appropriate. To the extent Grantor seeks to use the funds to relocate facilities and operations on its property, the County shall, upon notice from Grantor, prior to closing, prepare and provide at no cost and expense to Grantor site specific development plan, approved by the Director of the County's Development Services Department, that will be in compliance with all applicable State and County land use laws and regulations. Grantor shall cooperate with the County to develop the site specific development plan by providing the County with information concerning where it desires to locate on the Subject Property its facilities, structures, improvements, growing areas, etc. Furthermore, Grantor shall have a post-closing obligation to install the temporary access to its property on the easement that it is acquiring under this Agreement in Section 3(b), above, and it shall run from the County ROW at the intersection of Marksheffel and Colorado Tech Drive and enter into Grantor's property approximately 150 feet to the west of the centerline of Marksheffel Road. It shall be Grantor's obligation to complete the work so that it coincides with the County's determination to close off the Grantor's current or temporary direct access onto Marksheffel Road. The County shall have the right to close off Grantor's current direct access to Marksheffel Road upon 10 days advance written notice; however, unless the Marksheffel Road improvements are substantially completed, the County shall provide Grantor with temporary access to its property. The temporary access shall provide as a post closing obligation that upon the owner or developer of El Paso County tax schedule number 5405000048 of some part thereof constructing an extension of Colorado Tech Drive, the owner of the Subject Property

shall be required to promptly close off its access via the Access Easement and move its access to the future intersection location proposed approximately 465 feet west of the centerline of Marksheffel Road, and that the owner or developer of El Paso County tax schedule number 5405000048 of some part thereof shall not be required to bear any of the expense of closing off and moving the access point for the Ban Property. The Access Easement shall provide that it shall merge into, and shall immediately cease to be a legally binding and enforceable instrument by operation of law upon the area occupied by the access easement becoming dedicated and accepted for public road right-of-way by means of the recording of a subdivision plat by the owner or developer of El Paso County tax schedule number 5405000048 that contains the appropriate formalities for the dedication and acceptance thereof, and the easement shall provide that the owner thereof consents to the land underlying the Access Easement being dedicated for public road right-of-way without any further instrument or consent being required.

- a. The County, as part of the Marksheffel Road project and as post-closing obligation, shall construct a full movement intersection at the intersection of Marksheffel Road and the future Colorado Tech Drive.
- b. On or before Closing the County shall provide to Grantor an administrative determination, signed by the Director of the El Paso County Development Services Department (DSD), and assigned a file number and a file maintained and kept in DSD's records and database, that as a result of the transaction set forth in this Agreement, the Subject Property shall remain in the same state of land use compliance as existed prior to closing, including, but not limited to, a determination that the property is in compliance with the subdivision and the zoning regulations, including, but not limited to, compliance with the lot area and set back regulations of the zoning code. This determination shall incorporate the site specific development plan referenced in Section 4, above.
- c. On or before Closing the County shall provide to Grantor a subdivision exemption, signed by the Director of the El Paso County Development Services Department (DSD), and assigned a file number and a file maintained and kept in DSD's records and database, that as a result of the transaction set forth in this Agreement, the Subject Property shall not be in violation of the State and the County's subdivision laws and regulations. This determination shall incorporate the site specific development plan referenced in Section 4, above. In processing this administrative determination and the subdivision exemption set forth in this Subsection (c), the County/DSD shall include Grantor, and Grantor shall have the right to participate in, the development of the administrative determination and subdivision exemption, which administrative determination and subdivision exemption shall not be final without Grantor's express written consent thereto.

5. Contingency for Additional Right of Way Acquisition: The County shall not have any obligation to perform its obligations under this Agreement unless or until it closes its agreement with Marksheffel Business Center, LLC, the closing of which agreement will provide the County with the real estate interests necessary to complete its obligations under this Agreement.

6. Appurtenances and Other Interests: The property to be conveyed pursuant to this Agreement shall include any interests, easements, rights, benefits, improvements and fixtures incident and appurtenant thereto.

7. Mutual Promises Contract: The mutual promises contained herein are the only consideration for this Agreement, and the Parties hereby acknowledge the sufficiency of said consideration. Accordingly, the County is not paying earnest money as consideration for Grantor's entry into this Agreement.

8. Closing and Possession: Closing shall occur no later than ten (10) days from County's completion of its pre-closing obligations under this Agreement, and at a date, time, and place to be determined by the County. A Closing Agent shall conduct the Closing, and the County shall pay the Closing Agent's fees at the County's sole cost and expense. The County shall be entitled to possession of the property acquired immediately upon Closing.

9. Method of Conveyance/ Pro-Rations/Colorado Department of Transportation Right of Way Acquisition Form: The conveyance of the property under this Agreement shall be made by a good and sufficient Special Warranty Deed, subject to liens and encumbrances of record, if any, and free and clear of all taxes except for taxes accrued during the year 2010. Grantor shall pay the actual taxes and any unpaid assessments on the Subject Property for all previous years other than the year of Closing, if said taxes and assessments have not already been paid by Closing. All taxes accrued but not yet paid for the year of Closing shall be prorated to the day of Closing. However, the Closing Agent shall not credit the Purchase Price, but shall directly collect the same from proceeds and pay them directly to the El Paso County Treasurer. With respect to the Land Exchange Property, the Grantor will not receive a real estate tax pro-ration, as the taxes for the year of Closing shall have been paid directly to the Treasurer in the closing between the County and Marksheffel Business Center, LLC. Thus, Grantor will receive a credit for prepayment of the 2010 taxes payable in 2011 on the tax bill that Grantor will receive on the Exchange Property in 2011.

10. Title Commitment: The County shall, at its sole cost and expense, obtain a title commitment for owner's title insurance policy for the above-referenced properties in an amount to be determined by the County. The value of the title insurance for the Land Exchange Property that Grantor is to receive shall be \$57,000.00. The title company used to provide such commitment and title insurance shall be the County's exclusive choice.

11. Title Review/Matters Not Shown By the Public Records: On or before ten (10) calendar days from the execution of this Agreement by the County (hereinafter referred to as the Disclosure Deadline), each Party shall disclose to the other all easements, leases, liens, and any other title matters not shown by the public records and of which Grantor has actual

knowledge. Each shall have the right to enter upon and inspect the property to be acquired from the other Party. On or before twenty (20) days from the execution of this Agreement by Grantor, the each Party shall submit to the other Party any objections to any matters disclosed by the title commitment, to any matters in any public record, to any matters disclosed but not shown in the public record, and/or to any matters shown by an inspection of the property. After a Party receives an objection it shall make reasonable efforts to cure the objection by the date set for Closing. In the event that any such objection shall not be cured in the exercise of a Party's subjective discretion, the objecting Party shall not have an obligation to close this Agreement, and this Agreement shall terminate without the need for any action by the Parties.

12. Mortgage/Deed of Trust: Grantor shall not have an obligation to convey the real property to the County unless and until any person or entity holding a mortgage, deed of trust, or other security interest therein shall provide a good and sufficient partial release of the same to the Closing Agent. The County shall pay any reasonable fee required by the holder or the Closing Agent for providing, processing, preparing, recording, and tracking the release. Grantor shall not have any obligation under this Agreement to pay any such fee and/or to pay any amount requested by the Lender as a requirement of providing said partial release. Such fee shall not be considered as an amount to pay or reduce any part of the underlying indebtedness, including any interest accrued thereon. Execution of this Agreement by Grantor shall constitute Grantor's consent to both the County and the Closing Agent to contact the mortgage holder in order to obtain and work with the holder concerning satisfaction of the holder's requirements for providing said partial release.

13. Creation of Binding Contract/Effective Date: This Agreement shall not become binding upon El Paso County unless and until it is approved by the Board of County Commissioners sitting in an open and public meeting. Grantor's obligation under this Agreement shall expire unless and until this Agreement is approved and executed by the Board of County Commissioners no later than fourteen (14) calendar days from the date of the Grantor execution of this Agreement. The Effective Date of this Agreement shall be the date that it is approved by the Board of County Commissioners in an open and public meeting.

14. Entire Agreement/Subsequent Modification/Survival: This Agreement constitutes the entire contract between the Parties relating to the subject hereof, and any prior agreements, if any, pertaining thereto, whether oral or written, have been merged and integrated into this Agreement. No subsequent modification of the terms of this Agreement shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the Parties. Any obligation in this Agreement, which, by its terms, is intended to be performed after Closing, shall survive the same.

15. No Obligation to Close Unless Contingencies Satisfied: No Party shall have an obligation to close this Agreement unless a Party shall be satisfied in the sole exercise of their discretion that the conditions precedents to their respective obligations to close have been satisfied.

16. Agreement Not Admissible in Eminent Domain Proceeding: In the event the County and Grantor proceed to litigation in eminent domain concerning the Subject Property, the Parties agree and understand that this Agreement has been entered into as an attempt to resolve a disputed matter and, accordingly, shall not be admissible in any such proceeding pursuant to Rule 408 of the Colorado Rules of Evidence.

17. Post Closing Obligations/Post Termination Obligation: Any obligation arising under this Agreement that is expressly identified or intended by the Parties to be a post closing obligation shall survive closing of this Agreement. Any obligation arising under this Agreement that is expressly identified or intended by the Parties to survive termination of this Agreement shall survive termination of this Agreement, including, but not limited to, the provisions of the Section 19, below.

18. Choice of Law/Jurisdiction/Venue: This Agreement shall be interpreted and construed according to the laws of the state of Colorado. In the event of any litigation arising under this Agreement the exclusive jurisdiction and venue shall be in the District or County Courts of the Fourth Judicial District in and for the County of El Paso, State of Colorado.

19. Immediate Possession Agreement: At mutual execution of this Agreement the County shall present to the Grantor a CDOT-approved Immediate Possession Agreement for the property that Grantor intends to exchange or sell to the County. The Immediate Possession Agreement shall provide cash consideration in the amount set forth in Section 4, above to Grantor at the time of execution, and shall contain a time provision that the transaction contemplated herein shall close or shall proceed to eminent domain no later than 180 days from the date of execution of this Immediate Possession Agreement. The Immediate Possession Agreement shall be effective upon execution and execution shall take place at a title company. The cash consideration shall exchange upon the County's satisfaction that the title company will issue a title insurance policy for the grant of possession insuring a value of \$47,889, and which policy shall be free and clear of all liens and encumbrances, except for taxes for the year of granting immediate possession. Any such taxes for the year of granting possession shall be handled at execution pursuant to the provisions of Section 8, above. The Immediate Possession Agreement shall provide for the temporary access to Grantor's property as set forth in Section 4, above. In the event this Agreement terminates prior to closing but following mutual execution of the Immediate Possession Agreement, the provisions of the Immediate Possession Agreement shall survive closing.

20. Additional Disclosure: In the event the County is not able to close its transaction with the adjacent property owner, the County discloses that, subject to receiving an additional approval from the Board of County Commissioners, it will have to initiate condemnation in order to convert the access from a temporary access easement to permanent access, either in the form of obtaining by condemnation public right of way in fee simple or in the form of a permanent easement. Furthermore, County discloses that it cannot lawfully leave Grantor without access to his property. Therefore, by executing this document Grantor does not waive any claim to damages it may have as a result of the County not being able to deliver permanent access to its property. Prior to initiating condemnation, if necessary, the

County preserves its ability to litigate with the owner of the adjacent property in quiet title, declaratory judgment or other action concerning whether the temporary access easement is sufficient to constitute a long-term or permanent access to Grantor's property.

DATED this 14 day of DECEMBER, 2010.

BAN, LLC,
A Colorado Limited Liability Company

By: Kevin Moore, Manager
Kevin Moore, Manager

DATED this 21st day of December, 2010.

ATTEST

By: Wanda C. Bahal
County Clerk and Recorder

APPROVED AS TO FORM:

OFFICE OF THE COUNTY ATTORNEY
OF EL PASO COUNTY, COLORADO

William H. Lewis
William H. Lewis, County Attorney

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: Dennis Hisey
Dennis Hisey, Chairman

EXHIBIT "A"

**PARCEL NUMBER 01
DESCRIPTION**

RIGHT OF WAY DEDICATION

That certain parcel of land situated in the Northeast One-Quarter of Section 5, Township 14 South, Range 65 West of the 6th Principal Meridian., County of El Paso, State of Colorado, being a portion of the parcel of land described in the Special Warranty Deed recorded on July 3, 1995 in Book 6676 at Page 1356 of the records in the Office of the Clerk and Recorder of said El Paso County, more particularly described as follows:

Commencing at the East One-Quarter Corner of said Section 5, being also the southeast corner of said parcel described in Book 6676: Thence South 89°41'32" West along the South line of said parcel, 30.00 feet to the POINT OF BEGINNING;

Thence South 89°41'32" West, along said South line, 45.00 feet;

Thence North 00°08'32" East, along a line 75.00 feet Westerly of and parallel to the East line of said Northeast One-Quarter, 327.42 feet to the north line of said parcel described in Book 6676:

Thence North 89°37'07" East, along the said North line, 45.00 feet;

Thence South 00°08'32" West, along a line 30.00 feet Westerly of and parallel to the East line of said Northeast One-Quarter, 327.48 feet to the POINT OF BEGINNING.

CONTAINING: 14,735 Square Feet or 0.3383 Acre, more or less.

SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of Record.

EXHIBIT "B" attached as a graphical depiction of the above described property as an aid in the visual interpretation of the written document.

The Basis of Bearings is the East line of the Northeast One-Quarter of Section 5, Township 14 South, Range 65 West of the 6th Principal Meridian, being monumented on the south end by a 3 1/4" aluminum cap stamped "El Paso County D.P.W., 1992, L.S. 17496" in Department of Public Works range box and on the north end by a 2" pipe with 3" aluminum cap stamped "W.K. Clark Assoc. Inc., L.S. 4842, 1985", which bears North 00°08'32" East, 2617.04 feet.

Robert L. Meadows, Jr. PLS 34977
Prepared for and behalf of
Matrix Design Group, Inc.
2435 Research Parkway, Suite # 300
Colorado Springs, CO 80920



DATE: Oct. 09. 2009
 DRAWN BY: BRIAN KNUDSEN
 CHECKED BY: dib
 APPROVED BY: BOB MEADOWS
 DRAWING: EAN-ROW.dwg

EXHIBIT B SKETCH
 PARCEL OF RIGHT-OF-WAY
 DEDICATION
 PARCEL 5405000006
 S 1/2 OF SE 1/4 OF SE 1/4 OF NE 1/4,
 SECTION 5, T 14 S, R 65 W, 6TH P.M.
 EL PASO COUNTY, COLORADO



MARKSHEFFEL BUSINESS CENTER
 FILING NO. 1
 LOT 3
 (RECEPTION NO. 203254741)



BAH LLC,
 A COLORADO LIMITED LIABILITY COMPANY
 SCH # 5405000006
 (BOOK 6676, PAGE 1358)

NE COR. SEC. 5, T 14 S,
 R 65 W, 6TH P.M.
 FOUND 2" PIPE WITH 3"
 ALUMINUM CAP STAMPED "W.K.
 CLARK ASSOC. INC. L.S. 4842
 1985" PER MONUMENT RECORD
 FILED 4/29/86

LINE TABLE		
LINE	LENGTH	BEARING
L1	30.00	S89°41'32"W
L2	45.00	S89°41'32"W
L3	45.00	N89°37'07"E

CLAREMONT RANCH
 FILING NO. 8

POINT OF COMMENCEMENT
 E 1/4 COR. SEC. 5, T 14 S,
 R 65 W, 6TH P.M.
 FOUND 3 1/4" ALUMINUM
 CAP STAMPED "EL PASO
 COUNTY D.P.W., 1992, L.S.
 17496" IN DEPARTMENT OF
 PUBLIC WORKS RANGE BOX
 PER 1993 MONUMENT RECORD

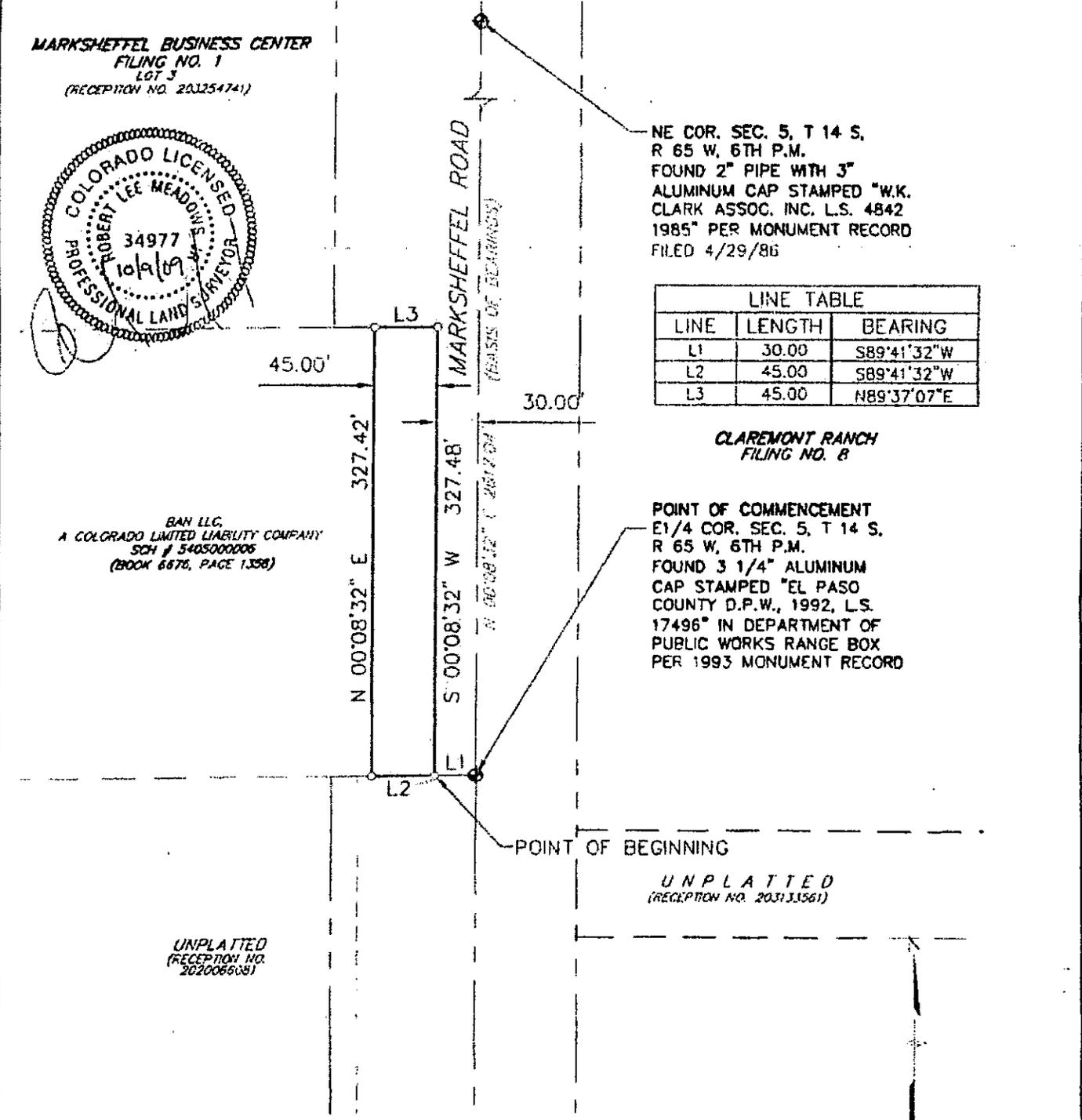
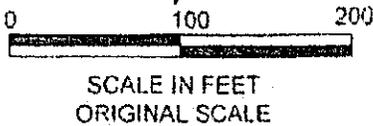
POINT OF BEGINNING

UNPLATTED
 (RECEPTION NO. 20313561)

UNPLATTED
 (RECEPTION NO. 202065081)

NOTE: THIS IS NOT A
 MONUMENTED SURVEY. IT IS
 INTENDED ONLY TO DEPICT THE
 ATTACHED DESCRIPTION.

AREA: 14,735 s.f.



October 09, 2009
J.N.: 09.122.002
Ban LLC, MVEA Easement

EXHIBIT "A"

PERMANENT EASEMENT NUMBER PE-01
DESCRIPTION

NON-EXCLUSIVE PERMANENT UTILITY EASEMENT

That certain parcel of land situated in the Northeast One-Quarter of Section 5, Township 14 South, Range 65 West of the 6th Principal Meridian, County of El Paso, State of Colorado, being a portion of the parcel of land described in the Special Warranty Deed recorded on July 3, 1995 in Book 6676 at Page 1356 of the records in the Office of the Clerk and Recorder of said El Paso County, more particularly described as follows:

Commencing at the East One-Quarter Corner of said Section 5, being also the Southeast corner of said parcel described in Book 6676: Thence South 89°41'32" West, along the South line of said parcel, 75.00 feet to the POINT OF BEGINNING;

Thence South 89°41'32" West, along said South line, 30.00 feet:

Thence North 00°08'32" East, along a line 105.00 feet Westerly of and parallel to the East line of said Northeast One-Quarter, 20.00 feet:

Thence North 89°41'32" East, 10.00 feet:

Thence North 00°08'32" East, along a line 95.00 feet Westerly of and parallel to the East line of said Northeast One-Quarter, 307.40 feet to the North line of said parcel described in Book 6676:

Thence North 89°37'07" East, along the North line of said parcel, 20.00 feet:

Thence South 00°08'32" West, along a line 75.00 feet Westerly of and parallel to the East line of said Northeast One-Quarter, 327.42 feet to the POINT OF BEGINNING.

CONTAINING: 6,748 Square Feet or 0.1549 Acre, more or less.

SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of Record.

EXHIBIT "B" attached as a graphical depiction of the above described property as an aid in the visual interpretation of the written document.

PERMANENT EASEMENT NUMBER PE-01
DESCRIPTION

The Basis of Bearings is the East line of the Northeast One-Quarter of Section 5, Township 14 South, Range 65 West of the 6th Principal Meridian, being monumented on the south end by a 3 1/4" aluminum cap stamped "El Paso County D.P.W., 1992, L.S. 17496" in Department of Public Works range box and on the north end by a 2" pipe with 3" aluminum cap stamped "W.K. Clark Assoc. Inc., L.S. 4842, 1985", which bears North 00°08'32" East, 2617.04 feet.

Robert L. Meadows, Jr. PLS 34977
Prepared for and behalf of
Matrix Design Group, Inc.
2435 Research Parkway, Suite # 300
Colorado Springs, CO 80920



DATE: Oct. 09, 2009

DRAWN BY: BRIAN KNUDSEN

CHECKED BY: dib

APPROVED BY: BOB MEADOWS

DRAWING: BAN-ESMT MV.dwg

EXHIBIT B SKETCH

NON-EXCLUSIVE
PERMANENT EASEMENT PE-01
PARCEL 5405000006
S 1/2 OF SE 1/4 OF SE 1/4 of NE 1/4,
SECTION 5, T 14 S, R 65 W, 6TH P.M.
EL PASO COUNTY, COLORADO



MARKSHEFFEL BUSINESS CENTER
FILING NO. 1
LOT 3
(RECEPTION NO. 203254741)



BAN LLC
A COLORADO LIMITED LIABILITY COMPANY
SCH # 3405000006
(BOOK 6676, PAGE 1356)

UNPLATTED
(RECEPTION NO. 202006608)

MARKSHEFFEL ROAD
(BASES OF BEARINGS)

NE COR. SEC. 5, T 14 S,
R 65 W, 6TH P.M.
FOUND 2" PIPE WITH 3"
ALUMINUM CAP STAMPED "W.K.
CLARK ASSOC. INC. L.S. 4842
1985" PER MONUMENT RECORD
FILED 4/29/86

LINE TABLE		
LINE	LENGTH	BEARING
L1	75.00	S89°41'32"W
L2	30.00	S89°41'32"W
L3	20.00	N00°08'32"E
L4	10.00	N89°41'32"E
L5	20.00	N89°37'07"E

CLAREMONT RANCH
FILING NO. 8

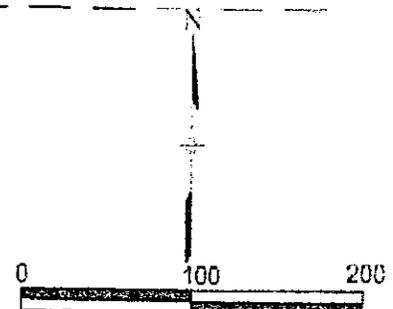
POINT OF COMMENCEMENT
E1/4 COR. SEC. 5, T 14 S, R
65 W, 6TH P.M.
FOUND 3 1/4" ALUMINUM
CAP STAMPED "EL PASO
COUNTY D.P.W., 1992, L.S.
17496" IN DEPARTMENT OF
PUBLIC WORKS RANGE BOX
PER 1993 MONUMENT RECORD

POINT OF BEGINNING

UNPLATTED
(RECEPTION NO. 203133561)

NOTE: THIS IS NOT A
MONUMENTED SURVEY. IT IS
INTENDED ONLY TO DEPICT THE
ATTACHED DESCRIPTION.

AREA: 6,748 s.f.



SCALE IN FEET
ORIGINAL SCALE

November 11, 2009
J.N.: 09.122.002
Ban LLC, Temporary Easement

EXHIBIT "A"

TEMPORARY EASEMENT NUMBER TE-01
DESCRIPTION

NON-EXCLUSIVE TEMPORARY CONSTRUCTION EASEMENT

That certain parcel of land situated in the Northeast One-Quarter of Section 5, Township 14 South, Range 65 West of the 6th Principal Meridian, County of El Paso, State of Colorado, being a portion of the parcel of land described in the Special Warranty Deed recorded on July 3, 1995 in Book 6676 at Page 1356 of the records in the Office of the Clerk and Recorder of said El Paso County, more particularly described as follows:

Commencing at the East One-Quarter Corner of said Section 5, being also the Southeast corner of said parcel described in Book 6676; Thence South 89°41'32" West, along the South line of said parcel, 75.00 feet to the POINT OF BEGINNING:

Thence South 89°41'32" West, along said South line, 30.00 feet;

Thence North 00°08'32" East, along a line 105.00 feet Westerly of and parallel to the East line of said Northeast One-Quarter, 20.00 feet;

Thence North 89°41'32" East, 10.00 feet;

Thence North 00°08'32" East, along a line 95.00 feet Westerly of and parallel to the East line of said Northeast One-Quarter, 307.40 feet to the North line of said parcel described in Book 6676;

Thence North 89°37'07" East, along the North line of said parcel, 20.00 feet;

Thence South 00°08'32" West, along a line 75.00 feet Westerly of and parallel to the East line of said Northeast One-Quarter, 327.42 feet to the POINT OF BEGINNING.

CONTAINING: 6,748 Square Feet or 0.1549 Acre, more or less.

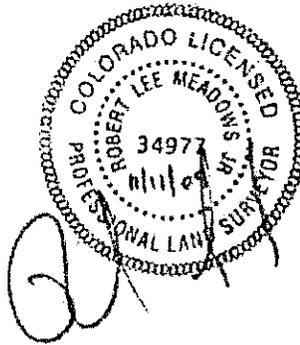
SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of Record.

EXHIBIT "B" attached as a graphical depiction of the above described property as an aid in the visual interpretation of the written document.

TEMPORARY EASEMENT NUMBER TE-01
DESCRIPTION

The Basis of Bearings is the East line of the Northeast One-Quarter of Section 5, Township 14 South, Range 65 West of the 6th Principal Meridian, being monumented on the south end by a 3 1/4" aluminum cap stamped "El Paso County D.P.W., 1992, L.S. 17496" in Department of Public Works range box and on the north end by a 2" pipe with 3" aluminum cap stamped "W.K. Clark Assoc. Inc., L.S. 4842, 1985", which bears North 00°08'32" East, 2617.04 feet.

Robert L. Meadows, Jr. PLS 34977
Prepared for and behalf of
Matrix Design Group, Inc.
2435 Research Parkway, Suite # 300
Colorado Springs, CO 80920



DATE: Nov. 11, 2009

DRAWN BY: dib

CHECKED BY: dib

APPROVED BY: BOB MEADOWS

DRAWING: BAN-ESMT TE.dwg

EXHIBIT B SKETCH

NON-EXCLUSIVE
TEMPORARY EASEMENT TE-01
PARCEL 5405000006
S 1/2 OF SE 1/4 OF SE 1/4 of NE 1/4,
SECTION 5, T 14 S, R 65 W, 6TH P.M.
EL PASO COUNTY, COLORADO



MARKSHEFFEL BUSINESS CENTER
FILING NO. 1
LOT 3
(RECEPTION NO. 203254741)



BAN LLC,
A COLORADO LIMITED LIABILITY COMPANY
SCH # 5405000006
(BOOK 6876, PAGE 1358)

UNPLATTED
(RECEPTION NO. 202006608)

MARKSHEFFEL ROAD
(BASIS OF BEARINGS)
N 00°08'32" E 2017.04'

NE COR. SEC. 5, T 14 S,
R 65 W, 6TH P.M.
FOUND 2" PIPE WITH 3"
ALUMINUM CAP STAMPED "W.K.
CLARK ASSOC. INC. L.S. 4842
1985" PER MONUMENT RECORD
FILED 4/29/86

LINE TABLE		
LINE	LENGTH	BEARING
L1	75.00	S89°41'32"W
L2	30.00	S89°41'32"W
L3	20.00	N00°08'32"E
L4	10.00	N89°41'32"E
L5	20.00	N89°37'07"E

CLAREMONT RANCH
FILING NO. 8

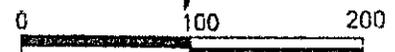
POINT OF COMMENCEMENT
E 1/4 COR. SEC. 5, T 14 S, R
65 W, 6TH P.M.
FOUND 3 1/4" ALUMINUM
CAP STAMPED "EL PASO
COUNTY D.P.W., 1992, L.S.
17496" IN DEPARTMENT OF
PUBLIC WORKS RANGE BOX
PER 1993 MONUMENT RECORD

POINT OF BEGINNING

UNPLATTED
(RECEPTION NO. 203133561)

NOTE: THIS IS NOT A
MONUMENTED SURVEY. IT IS
INTENDED ONLY TO DEPICT THE
ATTACHED DESCRIPTION.

AREA: 6.748 s.f.



SCALE IN FEET
ORIGINAL SCALE

EXHIBIT A
EL PASO COUNTY
PERMANENT DRAINAGE EASEMENT

SITUATE
THE EAST HALF OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M.
EL PASO COUNTY, COLORADO

LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN THE EAST HALF OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M. IN EL PASO COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST, OF THE 6th P.M.,

1. THENCE SOUTH 86°21'03" WEST A DISTANCE OF 622.50 FEET TO THE POINT OF **BEGINNING;**
2. THENCE NORTH 00°06'54" WEST A DISTANCE OF 362.45 FEET;
3. THENCE SOUTH 89°36'41" WEST A DISTANCE OF 40.00 FEET;
4. THENCE SOUTH 00°06'54" EAST A DISTANCE OF 362.45 FEET;
5. THENCE SOUTH 89°52'56" EAST A DISTANCE OF 40.00 FEET TO THE POINT OF **BEGINNING.**

SAID TRACT OF LAND CONTAINS 14,505.16 SQUARE FEET, (0.333 ACRES), MORE OR LESS.

ALL BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M. WHICH IS ASSUMED TO BEAR SOUTH 89°38'12" WEST.

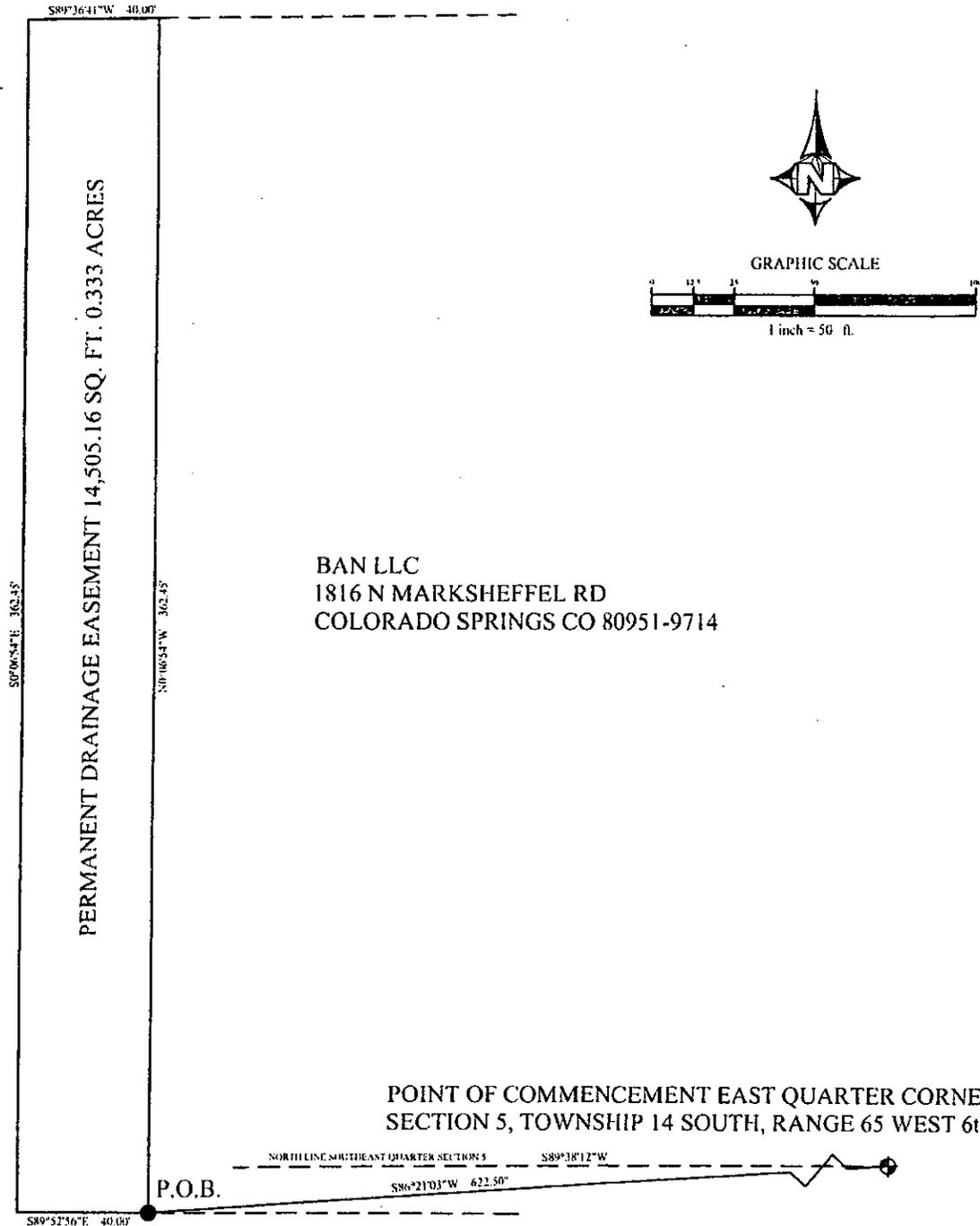
Carl R. McClellan
Professional Land Surveyor
LS NO. 17496

SCALE: NONE DATE: 09/22/10
DRAWING: BANPEDRAIN BY: RLP

EL PASO COUNTY
PUBLIC SERVICES DEPARTMENT

EXHIBIT B
EL PASO COUNTY
PERMANENT DRAINAGE EASEMENT

SITUATE
THE EAST HALF OF SECTION 32, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6th P.M.
EL PASO COUNTY, COLORADO



Carl R. McClellan
Professional Land Surveyor
LS NO. 17496

SCALE: 1"=50' DATE: 09/22/10
DRAWING: BANPEDRAIN BY: RLP

EL PASO COUNTY
PUBLIC SERVICES DEPARTMENT

EXHIBIT A
EL PASO COUNTY
SPECIAL WARRANTY DEED

SITUATE
THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M.
EL PASO COUNTY, COLORADO

LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M. IN EL PASO COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST, OF THE 6th P.M.,

1. THENCE SOUTH 89°38'12" WEST, ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5, A DISTANCE OF 105.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MARKSHEFFEL ROAD, SAID POINT BEING THE **POINT OF BEGINNING**;
2. THENCE, CONTINUING ALONG SAID NORTH LINE, SOUTH 89°38'12" WEST A DISTANCE OF 556.17 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL OF LAND AS RECORDED UNDER RECEPTION NO. 095066134 IN BOOK 6676 AT PAGE 1356 IN THE RECORDS OF EL PASO COUNTY, COLORADO;
3. THENCE SOUTH 00°06'54" WEST A DISTANCE OF 35.34 FEET;
4. THENCE SOUTH 89°52'56" EAST A DISTANCE OF 556.16 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF MARK SHEFFEL ROAD;
5. THENCE NORTH 00°06'20" EAST, ALONG SAID WEST RIGHT-OF-WAY, A DISTANCE OF 40.01 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT OF LAND CONTAINS 20,955.57 SQUARE FEET, (0.48 ACRES), MORE OR LESS.

ALL BEARINGS ARE BASED ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M. WHICH IS ASSUMED TO BEAR SOUTH 89°38'12" WEST.

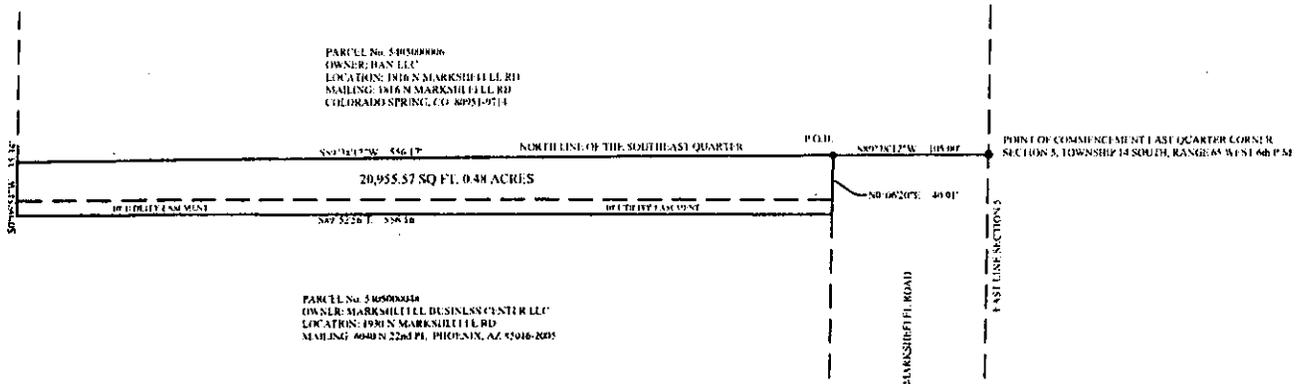
Carl R. McClellan
Professional Land Surveyor
LS NO. 17496

SCALE: NONE DATE: 09/21/10
DRAWING: SWAPTRACT A BY: RLP

EL PASO COUNTY
PUBLIC SERVICES DEPARTMENT

EXHIBIT B
EL PASO COUNTY
SPECIAL WARRANTY DEED

SITUATE
THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M.
EL PASO COUNTY, COLORADO



Carl R. McClellan
Professional Land Surveyor
LS NO. 17496

SCALE: 1"=125' DATE: 09/21/10
DRAWING: SWAPTRACT B BY: RLP

EL PASO COUNTY
PUBLIC SERVICES DEPARTMENT

EXHIBIT A
EL PASO COUNTY
ACCESS EASEMENT

SITUATE
THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M.
EL PASO COUNTY, COLORADO

LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M. IN EL PASO COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST, OF THE 6th P.M.,

1. THENCE SOUTH 68°50' 10" WEST A DISTANCE OF 112.67 FEET, TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MARKSHEFFEL ROAD, SAID POINT BEING THE **POINT OF BEGINNING**;
2. THENCE SOUTH 00°06'20" WEST, ALONG SAID WEST RIGHT-OF-WAY, A DISTANCE OF 80.00 FEET;
3. THENCE NORTH 89°52'56" WEST A DISTANCE OF 50.00 FEET;
4. THENCE NORTH 00°06'20" EAST A DISTANCE OF 80.00 FEET;
5. THENCE SOUTH 89°52'56" EAST A DISTANCE OF 50.00 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT OF LAND CONTAINS 4,000 SQUARE FEET, (0.09 ACRES), MORE OR LESS.

ALL BEARINGS ARE BASED ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M. WHICH IS ASSUMED TO BEAR SOUTH 00°31'41" WEST.

Carl R. McClellan
Professional Land Surveyor
LS NO. 17496

SCALE: NONE DATE: 09/21/10
DRAWING: TEACCESS MBC BY: RLP

EL PASO COUNTY
PUBLIC SERVICES DEPARTMENT

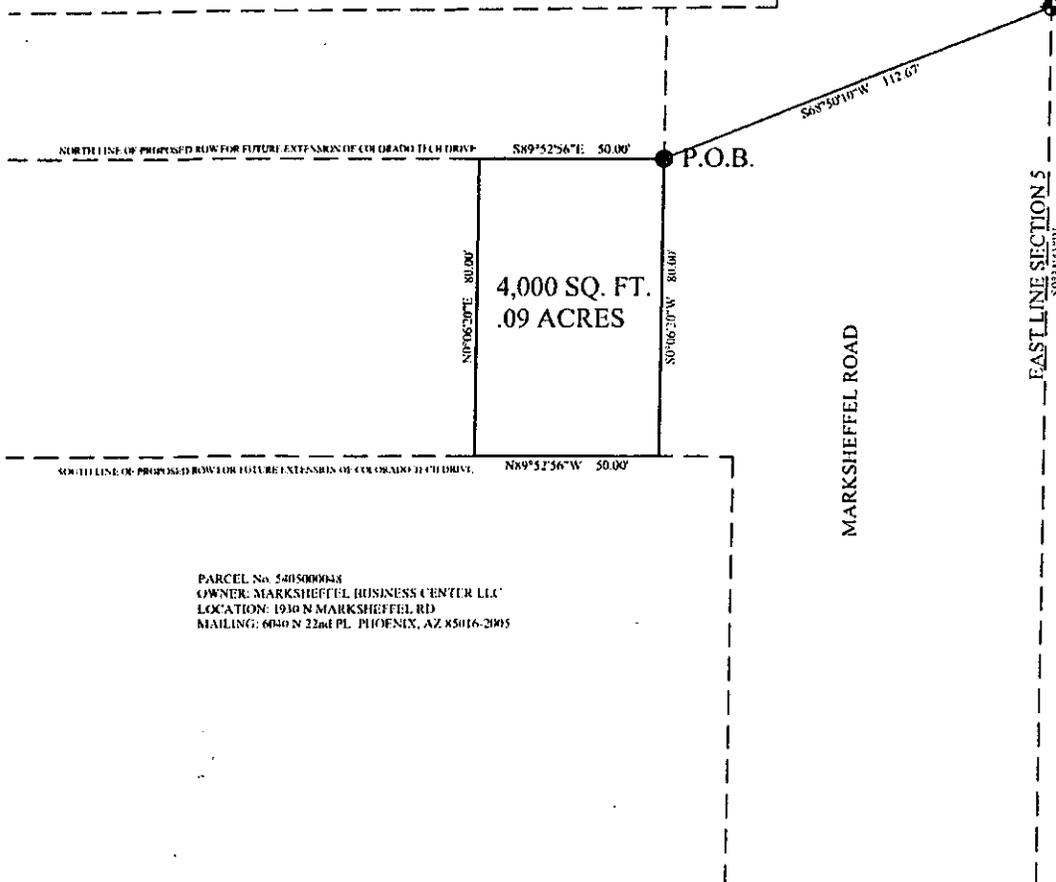
EXHIBIT B
EL PASO COUNTY
ACCESS EASEMENT

SITUATE
THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M.
EL PASO COUNTY, COLORADO



PARCEL No. 5405000006
OWNER: BAN LLC
LOCATION: 1816 N MARKSHEFFEL RD
MAILING: 1816 N MARKSHEFFEL RD
COLORADO SPRING, CO. 80951-9714

POINT OF COMMENCEMENT EAST QUARTER CORNER
SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST 6th P.M.



PARCEL No. 5405000004
OWNER: MARKSHEFFEL BUSINESS CENTER LLC
LOCATION: 1930 N MARKSHEFFEL RD
MAILING: 6040 N 22nd PL. PHOENIX, AZ 85016-2005

Carl R. McClellan
Professional Land Surveyor
LS NO. 17496

SCALE: 1"=50' DATE: 09/21/10
DRAWING: TEACCESSMBC BY: RLP

EL PASO COUNTY
PUBLIC SERVICES DEPARTMENT

EXHIBIT A
EL PASO COUNTY
ACCESS EASEMENT - EXCHANGE PROPERTY

SITUATE
THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M.
EL PASO COUNTY, COLORADO

LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M. IN EL PASO COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST, OF THE 6th P.M.,

1. THENCE SOUTH 89°38'12" WEST, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 105.00 FEET, TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MARKSHEFFEL ROAD, SAID POINT BEING THE **POINT OF BEGINNING**;
2. THENCE SOUTH 00°06'20" WEST, ALONG SAID WEST RIGHT-OF-WAY, A DISTANCE OF 40.01 FEET;
3. THENCE NORTH 89°52'56" WEST A DISTANCE OF 50.00 FEET;
4. THENCE NORTH 00°06'20" EAST A DISTANCE OF 39.59 FEET;
5. THENCE NORTH 89°38'12" EAST A DISTANCE OF 50.00 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT OF LAND CONTAINS 1,990.2 SQUARE FEET, (0.046 ACRES), MORE OR LESS.

ALL BEARINGS ARE BASED ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M. WHICH IS ASSUMED TO BEAR SOUTH 00°06'20" WEST.

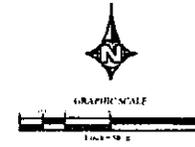
Carl R. McClellan
Professional Land Surveyor
LS NO. 17496

SCALE: NONE DATE: 09/21/10
DRAWING: TEACCESSSwap BY: RLP

EL PASO COUNTY
PUBLIC SERVICES DEPARTMENT

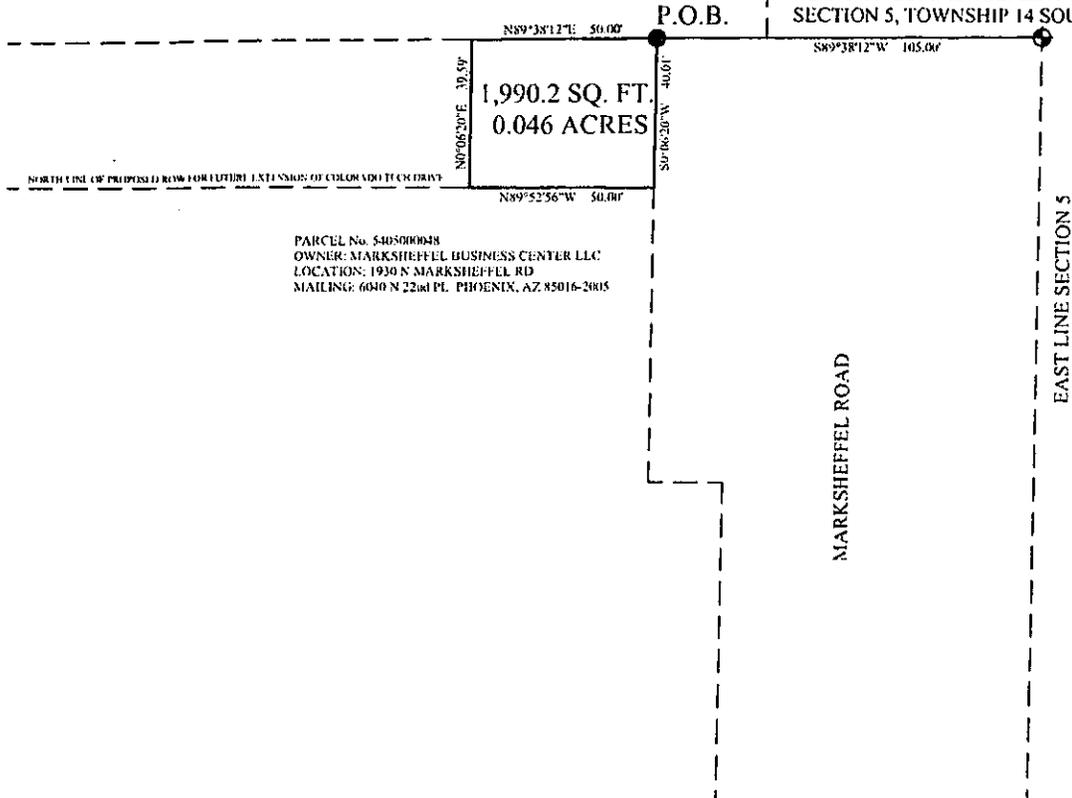
EXHIBIT B
EL PASO COUNTY
ACCESS EASEMENT - EXCHANGE PROPERTY

SITUATE
 THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6th P.M.
 EL PASO COUNTY, COLORADO



PARCEL No. 5405000006
 OWNER: HAN LLC
 LOCATION: 1816 N MARKSHEFFEL RD
 MAILING: 1816 N MARKSHEFFEL RD
 COLORADO SPRING, CO. 80951-9714

POINT OF COMMENCEMENT EAST QUARTER CORNER
 SECTION 5, TOWNSHIP 14 SOUTH, RANGE 65 WEST 6th P.M.



PARCEL No. 5405000048
 OWNER: MARKSHEFFEL BUSINESS CENTER LLC
 LOCATION: 1930 N MARKSHEFFEL RD
 MAILING: 6040 N 22nd PL. PHOENIX, AZ 85016-2885

Carl R. McClellan
 Professional Land Surveyor
 LS NO. 17496

SCALE: 1"=50' DATE: 09/21/10
 DRAWING: TEACCESSwap BY: RLP

EL PASO COUNTY
PUBLIC SERVICES DEPARTMENT